

HB 2945 HD2

EDT

Written Statement of
YUKA NAGASHIMA
Executive Director & CEO
High Technology Development Corporation
before the
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
March 8, 2010
1:15 PM
State Capitol, Conference Room 016

In consideration of
HB 2945 HD2 RELATING TO ECONOMIC DEVELOPMENT.

Chair Fukunaga, Vice Chair Baker, and Members of the Senate Committee on Economic Development and Technology.

The High Technology Development Corporation (HTDC) supports the intent of HB 2945 HD2 which amends the State Private Investment Fund (SPIF) legislation.

The merits of SPIF and funding mechanisms for capital formation vehicles such as SPIF have been thoroughly discussed before this legislative session, with national and local experts, with industry supporters and professionals supporting the tech sectors, including the members from both chambers of the State legislature. HTDC respects the State's position to limit spending. We also recognize that fiscal responsibility needs to be exercised not only in reduction of expenditures, but to ramp up efforts to increase our revenues, because there are only so many cuts we can make. Economic development practitioners have seen again and again that sound investments made (whether in policy, resources, or in dollars) during recession periods is what affects the magnitude of success the community enjoys out of the recession. Ideas contained in HB2945 HD can be crafted to leverage more opportunities with minimal investment by the State, by deferring the cost to future years, if and when the actual issuance of the State tax credit is necessary.

The current draft of the bill has several technical problems. We defer to our colleague, Mr. Karl Fooks of Hawaii Strategic Development Corporation (HSDC) with whom we worked to correct the technical problems with this bill, so that it may address the original intent of the bill effectively. HTDC respectfully asks the Senate Committee on Economic Development and Technology to consider HSDC's detailed amendment recommendations and ensure safe passage of the bill as HB2945 HD2 SD1.

Thank you for the opportunity to submit testimony.



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Written Statement of
Karl Fooks
President
Hawaii Strategic Development Corporation

Before the
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

Monday March 8, 2010
1:15 PM
State Capitol, Conference Room 016

In consideration of

HB 2945 HD2 RELATING TO ECONOMIC DEVELOPMENT

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

Hawaii Strategic Development Corporation (HSDC) supports HB 2945 HD2 if the amendments HSDC have suggested are incorporated.

Many states have adopted a fund of funds model to support venture capital investment in their state, indeed HSDC has been managing Hawaii's venture capital fund of funds program for many years. The focus of this bill is to create a financing mechanism that will not use scarce State fiscal resources, but still allow investment capital to be mobilized by HSDC for Hawaii's high technology companies.

Four objectives are important for financing a venture capital investment program in the current economic conditions:

- Cost to the State should be deferred for a minimum of two fiscal years.
- Potential for investment returns to offset costs should be preserved.
- Any costs incurred should be known and spread over a number of years.
- Capital should be pooled into investment funds and managed by private sector fund managers

Utilizing contingent tax credit financing mechanisms created by this bill appears to be an efficient means to meet these four objectives. The ability to defer cost from a state budgeting perspective will be determined by the earliest date the tax credits can be cashed. If that date is set for two years out, there will be no cost allocated in the budget for the first two years; if that date is set for four years out, there will be no cost allocated in the budget for the first four years, etc. However, a longer period of deferral may increase the cost of financing depending on the financing mechanism pursued.

From an economic perspective, the investments of the fund will be used to repay the capital raised from the market and therefore there is the potential for tax credits to never be cashed. In the unfortunate event where investment returns are insufficient to repay all the capital raised from the market, the State's cost from the exercise of tax credits will be capped by the annual limits and overall program limit imposed by this legislation. The Department of Taxation has expressed concern over the credit transfer provisions of this bill, but these provisions are necessary for HSDC to sell, transfer, or assign the tax credits and thus, efficiently monetize the value of the tax credits.

Other states that are operating similar investment programs as contemplated by HB2945 HD2 have stressed the need to provide flexibility in the enabling legislation to ensure that the cheapest means of financing can be arranged. Many of these programs are around \$100 million in total size for a ten or twelve-year program as this amount seems to support the cost of raising financing and create a meaningful presence in the venture capital industry.

There are amendments to HB 2945 HD2 that HSDC recommends to allow effective implementation of this legislation:

Page 4, Line 4: §211G- State Private Investment Fund. (a) ~~There is established a state private investment fund to be administered by the corporation.~~ The corporation shall administer the state private investment fund. The state private investment fund shall invest in private seed and venture capital partnerships or entities to:

Page 5, Line 18: fund board shall consist of ~~six~~ five members; provided that:

Page 6, Line 3: (2) The president of the corporation, ~~the chief investment officer of the State of Hawaii employees' retirement system,~~ and the executive director of the state private investment fund shall serve as ex-officio voting members of the fund board; provided that if the state private investment fund does not employ an executive director, an additional voting member shall be appointed by the corporation board according to the criteria in paragraph (1);

Page 18, Line 3: ~~(1) Agreements entered into by the corporation to transfer tax credits shall not provide for the transfer of the tax credits out of the corporation before July 1, and~~

Page 20, Line 13: tax or estimated tax for the purposes of chapter 235 or 241[.], or section 431:7-202.

Page 20, Line 17: taxpayer's income tax liability under chapter 235 or 241[.], or section 431:7-202 for any

Page 21, Line 6: (i) Tax credits issued or transferred pursuant to this chapter are binding on the corporation and may not be modified, terminated, or rescinded.

In order to allow effective implementation of the State Private Investment Fund, we suggest the following amendment to Chapter 211F of the Hawaii Revised Statutes:

§211F-4 (24) (b) Except as provided for in §211G, The the corporation shall not promise to answer for the debts of any other person.

In order to allow effective implementation of the State Private Investment Fund, we suggest the following amendment to Chapter 127, Hawaii Administrative Rules:

§15-127-7 Conflict of interest; board members. ~~The corporation shall not~~ A board member shall not participate in any corporate decision to invest in, purchase from, sell to, borrow from, loan to, contract with, or otherwise deal with any person or entity in which a board member has ~~any~~ a substantial financial interest.

Thank you for the opportunity to submit testimony.



Bill **HB2945 HD2**
Date **March 8, 2010**
Time **1:15pm**
Place **Conference Room 016**
Committee **EDT**
Chair **The honorable Senator Carol Fukunaga**
Vice Chair **The honorable Senator Rosalyn Baker**

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

Hawaii Science and Technology Council (HSTC) strongly supports HB2945

We believe that this bill will help facilitate to create a financing mechanism that will allow investment capital to be mobilized, as well as support Hawaii's high technology companies. In addition, we feel that this measure takes into account and is sensitive to the current economic circumstances of the State.

Thank you for your time and consideration.

Respectfully yours,

Jamie Ayaka Moody
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Hawaii Science & Technology Council
733 Bishop Street. #1800
Honolulu, HI 96813

WRITTEN TESTIMONY ONLY

TESTIMONY BY DAVID SHIMABUKURO
ADMINISTRATOR, EMPLOYEES' RETIREMENT SYSTEM
STATE OF HAWAII
TO THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
ON
HOUSE BILL NO. 2945, H.D. 2
RELATING TO ECONOMIC DEVELOPMENT

LATE

MARCH 8, 2010

Chair Fukunaga and Members of the Committee:

The ERS Board of Trustees opposes a provision in H.B. 2945, H.D. 1 which requires the ERS' Chief Investment Officer (CIO) to serve on the State Private Investment Fund Board of Directors.

The ERS Board of Trustees recognizes the importance and value of the proposed State Private Investment Fund to increase the availability of venture capital for the State's emerging industries. However, the CIO's participation as a State Private Investment Fund Board Director could present a potential misalignment of interests and a conflict of responsibilities already assigned to the ERS' CIO.

Thank you for the opportunity to testify on this measure.

L E G I S L A T I V E

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SUBJECT: MISCELLANEOUS, State private investment fund

BILL NUMBER: HB 2945, HD-2

INTRODUCED BY: House Committee on Finance

LATE

BRIEF SUMMARY: Amends HRS section 211G-12 to delete the limit of the amount of tax credits that may be issued and transferred by the Hawaii strategic development corporation (HSDC). Tax credits issued to the corporation shall be freely transferable by the corporation to transferees and by transferees to subsequent transferees provided that: (1) agreements entered into by the HSDC to transfer tax credits shall not provide for the transfer before July 1, ____ and; (2) the tax credits transferred by the corporation shall not be exercisable before July 1, ____ nor after July 1, _____. Deletes the provision requiring the legislature's authorization to allow the HSDC to transfer tax credits. The tax credits claimed shall be refundable tax credits. HSDC shall limit the transfer of tax credits that may be claimed and used to reduce the tax otherwise imposed by chapters 235 or 241 or section 431:7-202 for one fiscal year to not more than an aggregate total of \$ _____ per fiscal year. Also allows insurance companies to utilize tax credits of the state private investment fund to offset insurance premiums taxes.

Makes other nontax amendments relating to the state private investment fund.

EFFECTIVE DATE: July 1, 2020

STAFF COMMENTS: The legislature by Act 215, SLH 2004, created the state private investment fund within the Hawaii Strategic Development Corporation (HSDC) to provide additional financing options including the use of tax credits to reduce the tax liability of taxpayers subject to HRS chapters 235 or 241. The proposed measure extends these provisions to insurance companies subject to HRS chapter 431 which is imposed in lieu of the net income tax and the general excise tax. The proposed measure would also increase the amount of tax credits that may be issued and transferred by deleting the limitation on the amount of tax credits that may be issued.

Looking back over the past 20 years, state government has a poor track record in trying to spur investment and job growth using taxpayer funds. While this measure would perpetuate the use of tax credits, it should be noted that the state has not tracked the cost-benefits of these tax credit programs, a recommendation of the most recent Tax Review Commission. The state has not ascertained if taxpayer dollars spent have gotten any economic returns. There is sparse data on how these credits affect the equity of the overall tax system. At best, the portion of the technology business that this measure impacts remains a small part of the employment pie while commanding a comparatively large share of state resources. The bottom line is that this measure represents an outflow of real dollars from the state treasury with very little accountability. In order to document outcomes, lawmakers should require those who wish to claim the credits to reveal how much will be claimed and how many jobs these credits will help create and identify themselves so taxpayers know who they are subsidizing.

Digested 3/5/10