

SB 1624

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 1624

February 5, 2009

PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION TO ALLOW THE LEGISLATURE TO EITHER FUND THE TAX CREDIT UNDER ARTICLE VII, SECTION 6 OF THE CONSTITUTION, OR DEPOSIT THE SAME AMOUNT INTO THE EMERGENCY AND BUDGET RESERVE FUND

Senate Bill No. 1624 proposes an amendment to the Hawaii Constitution to allow the Legislature to either provide for a tax refund or deposit the same amount into the Emergency and Budget Reserve Fund when there are excess balances in the General Fund for two consecutive years.

The Department of Budget and Finance concurs with the intent of the bill in setting aside excess general fund revenues in the Emergency and Budget Reserve Fund to prepare for a rainy day. Current budget difficulties clearly point out the need for the State to save and build up a financial reserve during periods of strong economic growth, to be used when there is an emergency or economic downturn. The bill provides an additional funding source for the Emergency and Budget Reserve Fund to supplement the annual deposits from the tobacco settlement. The proposed constitutional amendment will strengthen and make explicit the requirement to save excess general fund revenues. However, we believe that the constitutional mandate of a tax refund should be maintained. This mandatory refund serves as a reminder that tax collections in excess of requirements should be returned to Hawaii's taxpayers. Even if it is just a nominal refund, the underlying principle is sound.

Senate Bill No. 885 relating to deposits into the Emergency and Budget Reserve Fund is an administrative proposal to statutorily save 1% of the general fund balance when certain conditions are met. The bill clarifies that this deposit shall be made after the constitutional requirement of a tax refund is satisfied.

We recommend that both measures be considered in structuring a framework that will provide for both a tax refund and mandatory savings in the Emergency and Budget Reserve Fund when conditions relating to general fund excess revenues are met.

LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR



KURT KAWAFUCHI
DIRECTOR OF TAXATION

SANDRA L. YAHIRO
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

**SENATE COMMITTEE ON WAYS & MEANS
TESTIMONY REGARDING SB 1624
PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION TO ALLOW
THE LEGISLATURE TO EITHER FUND THE TAX CREDIT UNDER ARTICLE
VII, SECTION 6 OF THE CONSTITUTION, OR DEPOSIT THE SAME
AMOUNT INTO THE EMERGENCY AND BUDGET RESERVE FUND.**

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

DATE: FEBRUARY 5, 2009

TIME: 9:30AM

ROOM: 211

This measure proposes a constitutional amendment to allow the Legislature to direct the excess revenues of the state's general fund at the close of two successive fiscal years to either a state general tax refund or to the budget and emergency reserve fund.

The Department of Taxation provides comments on this measure; however prefers the Administration measure SB 885, which seeks to accomplish the same goal of replenishing the emergency and budget reserve fund.

As a result of the slowing economies locally, nationally, and globally, the State's economy and commensurate tax revenue collections have dropped substantially. Fiscal prudence is critical. This measure proposes to allow excess revenues to be diverted to the emergency and budget reserve fund at the discretion of the Legislature; or to a tax refund provided to taxpayers. By having a built-in mechanism to either return excess revenues to the taxpayers that built the reserve; or to invest the reserve for when times are tough, either alternative is prudent.

Though the Department would prefer that all excess revenues be returned to the taxpayers that built the reserve, given past practices of returning \$1 per taxpayer for the constitutional refund, allowing the Legislature to investment the reserves in the emergency fund may prove to be a more reasonable alternative when the \$1 per taxpayer refund is a mere gesture.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: CONSTITUTIONAL AMENDMENT, Deposit into emergency and budget reserve fund

BILL NUMBER: SB 1624

INTRODUCED BY: Hooser, Baker, Chun Oakland, Espero, Kim, Tokuda, Tsutsui

BRIEF SUMMARY: Amends Article VII, section 6, of the State Constitution to provide that whenever the general fund year-end balance at the close of two successive fiscal years exceeds 5% of general fund revenues, the legislature, in the next regular session, shall as an alternative to refunding an amount to taxpayers, deposit the amount that would have otherwise been refunded to taxpayers under the excess revenues provision into the emergency and budget reserve fund.

EFFECTIVE DATE: Voter approval

STAFF COMMENTS: The proposed measure provides that when the excess revenues provision of the State Constitution is triggered, the amount that would otherwise have been refunded to taxpayers under the excess revenues requirement shall be deposited into the emergency and budget reserve fund as an alternative to refunding that amount to taxpayers.

Originally, the “disposition of excess revenues” provision was enacted in tandem with the general fund spending limit. Although initially not a part of the spending limit discussion, the refund provision was to insure that consideration be given to returning excess funds to taxpayers rather than to remain a target for excessive public expenditure. While this measure proposes that excess revenues be deposited into the emergency and budget reserve fund rather than refunded to taxpayers, its enactment would have the same effect as repealing the “excess revenues” provision.

While the repeal of the mandatory refund provision may have political appeal because lawmakers have tacitly complied with a minimum \$1 refund per taxpayer, the refund provision serves a purpose. That purpose is making sure the general public is aware of their state finances. This provision insures people are reminded of just how much money the state is keeping for itself while maintaining the high burden of taxes. If the true spirit of the excess revenues provision is to be maintained, then another alternative should be considered and that would be to require that the legislature make a permanent downward adjustment in income or general excise tax rates as these are the two largest tax resources which benefit the general fund.

Digested 2/3/09



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 Senate
Committee on Ways and Means

Testimony by
Hawaii Government Employees Association
February 5, 2009

S.B. 1624 – PROPOSING AN AMENDMENT TO THE
HAWAII CONSTITUTION TO ALLOW THE
LEGISLATURE TO EITHER FUND THE TAX
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SAME AMOUNT INTO THE EMERGENCY
AND BUDGET RESERVE FUND

The Hawaii Government Employees Association supports the purpose and intent of S.B. 1624. This proposed amendment to the Hawaii State Constitution will allow the Legislature to either fund the mandatory tax credit or rebate or deposit the same amount into the emergency and budget reserve fund. When the capacity to generate revenue is strong, the State should save the surplus for use when revenue generation is weak. The Legislature should have the flexibility to access needed funds to balance the budget while also providing better planning to address cycles of economic growth and decline.

Many states have successfully used rainy day funds as a cushion against fluctuations in economic and business cycles. Thank you for the opportunity to testify in support of S.B. 1624.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director