



**EXECUTIVE CHAMBERS**  
HONOLULU

LINDA LINGLE  
GOVERNOR

Testimony of  
**Barry Fukunaga**  
Chief of Staff to the Governor

Before the  
**SENATE COMMITTEE ON WAYS AND MEANS**  
Monday, February 8, 2010, 9:30 a.m.  
Room 211, State Capitol

**SB2007 RELATING TO BUDGETARY POWERS**

Chair Mercado Kim, Vice Chair Tsutsui, and Members of the Committee:

The Office of the Governor **strongly opposes SB2007**, which eliminates the Governor and the Director of Finance's authority to restrict funds, reduce allotments, or suspend/abolish programs authorized by the Legislature. The Office of the Governor believes this measure unduly intrudes on the Executive Branch's ability to manage state operations and does not see any value in the passage of SB2007.

Specifically, this measure bars the Governor and the Director of Finance from suspending or abolishing existing programs, or restricting program funding if the program cannot adequately execute its intended purpose, unless authorized by a legislative act. This measure also prohibits allotment reductions to existing programs if it is below the amount required to adequately execute the program's intended purpose, unless authorized by a legislative act. Finally, this measure allows the Legislature to have the sole power in determining the establishment or abolishment of new or existing programs if public funds are expended.

SB2007 infringes on the separation of powers between the Legislative and Executive Branches, and also infringes on the Governor's authority to administer the budget. It is the responsibility of the Governor to ensure that the budget is balanced and expenditures are made prudently. In order to do so, the Governor requires the flexibility and authority to render financial decisions. As an example, significant restrictions were made to the Executive Branch budget for fiscal year 2008-2009—on the order of \$86.2 million in restrictions up to May 2009, with additional restrictions implemented in June 2009. This included restricting funds appropriated by the Legislature, which could not be reasonably released if we were to achieve a balanced budget as required by law. Moreover, many of these restrictions were made in May and June of 2009 after the Legislature adjourned, when revenues were no longer available to pay our expenses. As such, it would be impractical and infeasible for the Legislature to call itself back into session for the sole purpose of authorizing restrictions when the State faced these dramatic budget shortfalls in such a short time span.

Additionally, it is unclear what the threshold is for deeming whether a program is or is not adequately executing its intended purpose. The Administration and departments have been mindful to make restrictions and budget cuts that minimize impact to public services. Although cutbacks have been implemented, we have maintained our ability to perform the State's core functions and services.

Without the ability to undertake restrictions in an unfettered manner, the State would not have been able to impose the necessary reductions that have enabled the development of a balanced budget. Given the budget challenges we are facing in the current fiscal year, any attempt to limit the Governor and the Director of Finance's ability to balance the budget will erode the State's fiduciary responsibilities to the taxpayers and residents of Hawaii. As such, the Administration strongly opposes SB2007, and requests that it be held.

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. 2007

February 8, 2010

RELATING TO BUDGETARY POWERS

Senate Bill No. 2007 proposes to amend Chapter 37, Hawaii Revised Statutes, to restrict the budgetary powers of the Executive Branch such that:

1. The Governor and the Director of Finance could not restrict appropriated funding and the Director of Finance could not reduce an allotment to the extent that a program could not adequately execute its intended purpose.
2. The Governor and the Director of Finance could not suspend or abolish any existing program authorized and funded by the Legislature.

We strongly oppose this bill because the proposed amendments would seriously undermine and impair the ability of the Governor and the Executive Branch to manage State programs and resources for efficiency, productivity and economy. During periods of fiscal uncertainty, it is critical that the Governor and Executive Branch have the authority and flexibility to control spending, reduce expenses and economize available resources.

When revenues are deemed insufficient or uncertain, fiscal prudence must be exercised to avoid deficits in the budget and planning period. Where program requirements need further examination and justification, management review is the prerequisite for expending public funds. Actions to control expenditures are exercised as needed throughout the year by the Executive Branch in its capacity as administrator of State programs and finances.

Limiting the authority of the Governor and the Executive Branch to control expenditures may, in fact, have an adverse impact on the State's bond rating. Recently released rating agency reports indicate that the State has generally maintained its bond ratings by Fitch Ratings (AA with negative outlook), Standard & Poor's (AA with stable outlook) and Moody's Investors Service (Aa2 with downgraded outlook from stable to negative). The rating agencies have specifically noted the Governor's authority to reduce expenditures as one of the State's credit strengths and a determining factor in maintaining the State's bond rating:

- "Unlike many States, Hawaii's governor has strong executive powers to cut spending and balance the budget and recent actions to reduce expenses underscore ongoing willingness to take those steps." (Moody's Investors Service; February 4, 2010)
- "The [G]overnor's willingness to implement aggressive solutions to balance the fiscal 2010-2011 biennial budget given lower general fund tax revenue forecasts, including \$665 million in revenue and expenditure solutions for fiscal 2010 . . ." (Standard & Poor's; February 3, 2010)

The proposed amendments may also encroach upon the principle of separation of powers between the Legislative and Executive Branches of government. As established by constitutional and State law, the Legislature and the Executive Branch have distinct roles in the budget process. The Legislature has the power to appropriate funds for the working of State government. However, according to Attorney General Opinion No. 03-02, "once the appropriations bill has been enacted and the fiscal year begins, the legislative work is complete and it is the executive branch's responsibility to implement the budget." The State Constitution specifically recognizes the executive power of the Governor and requires (in Section 6, Article V) that "each principal department shall be under the supervision of the governor."

We strongly recommend that this bill be held.

## Testimony on SB 2007, Relating to Budgetary Powers

Senate Ways and Means Committee

Chair: Senator Donna Mercado Kim

Vice-Chair: Senator Shan Tsutsui

Presented by Howard S. Garval, President & CEO, Child & Family Service

Good morning, Chair Kim and Vice-Chair Tsutsui and Committee members. I am Howard Garval, President & CEO of Child & Family Service, Hawaii's oldest and largest human service nonprofit, serving keiki to kupuna on every island. We touch the lives of over 40,000 residents of Hawaii each year.

I applaud the Senate for this bill. I have only been in Hawaii for four years, but it is evident to me and many others that there is a major imbalance of power that has had a substantial negative impact on funding for nonprofit organizations here in Hawaii. We have had several years in which the Legislature has appropriated funds for a variety of programs and capital needs only to have the Administration either refusing to release these or completely disregarding the Legislature's appropriation and moving the funds somewhere else. While the Administration should have enough discretion to restrict funds when revenue falls short, their actions have gone as far as eliminating funding for programs that the Legislature allocated funds for which resulted in programs closing. This essentially renders meaningless the authority of the Legislature to appropriate funds. The result is a lack of balance of power in our government. This is a very serious flaw that must be addressed and that is why Child & Family Service strongly supports SB 2007.

One clear example of this in the last legislative session was the Legislature's restoration of funding for Hawaii's Healthy Start program that the Governor had proposed eliminating in the state budget. The Legislature restored \$3 million a year over the two years of the biennium through the appropriation of tobacco funds. The Department of Health decided in July 2009 not to release any portion of the \$3 million. If it weren't for the Legislature appropriated TANF funds to the

Department of Human Services for Healthy Start, the program would have been completely eliminated in the state. As it is the \$1.3 million in TANF funds that remain only preserve two programs, one on Oahu and one in Hilo. Thousands of families at high risk for child abuse are no longer receiving services, and it is only a matter of time before we see more abuse and neglect. The Healthy Start program has also been changed dramatically from its original intent, to prevent abuse before it occurs. Now the families who are eligible are already involved in Child Welfare Services. The limitation of only serving families with children from birth to six months also reduces the impact we can have. The previous time frame was birth to 3 years. I submit to you that the Department of Health eliminated funding the Legislature allocated to Healthy Start and the program has been dramatically changed from its original intent.

I support this bill not for partisan reasons but to restore a sense of democracy back into the legislative and budget process. The importance of separation and balance of powers between the legislative and executive branches is not a Democratic Party or Republican Party issue but is fundamental to a democracy, and the citizens of Hawaii deserve nothing less.

Thank you for the opportunity to present testimony on this important bill.

Howard S. Garval, President & CEO

Child & Family Service