

SB 2275

LINDA LINGLE
GOVERNOR OF HAWAII



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In reply, please refer to:
File:

SENATE COMMITTEE ON ENERGY AND ENVIRONMENT

S.B. 2275, RELATING TO ARCHITECTURAL PAINT

Testimony of Chiyome Leinaala Fukino, M.D.
Director of Health

February 2, 2010
3:30 p.m.

- 1 **Department's Position:** The Department of Health opposes this bill.
- 2 **Fiscal Implications:** Establishes a Product Stewardship Special Fund to be administered by the
- 3 Office of Environmental Quality Control (OEQC). Producers of architectural paint would pay a \$10,000
- 4 fee to the OEQC upon submission and approval of a management plan and then \$10,000 annually
- 5 thereafter. Or, the OEQC may establish an alternative fee schedule that does not exceed .05% of the
- 6 average stewardship program costs.
- 7 **Purpose and Justification:** The purpose of this bill is to require producers of architectural paint sold in
- 8 Hawaii to establish a pilot program to provide and manage end-of-product-life options for paint. The
- 9 program should establish options for post-consumer architectural paint, including reduction, reuse,
- 10 recycling, energy recovery, and disposal. The bill provides for oversight of the program by OEQC.
- 11 DOH feels that imposing fees on the paint industry and general public is inappropriate at this
- 12 time of economic difficulty.
- 13 Furthermore, OEQC has not been a regulating agency or managed a fee system historically.
- 14 Thank you for the opportunity to testify on this measure.

WRITTEN ONLY

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
ON
SENATE BILL NO. 2275

February 2, 2010

RELATING TO ARCHITECTURAL PAINT

Senate Bill No. 2275 establishes a pilot program to require producers of architectural paint sold in the State to establish or join a stewardship organization to implement an Architectural Paint Stewardship Program that provides for the collection, transportation, and processing of post-consumer architectural paint. Provides for oversight by the Office of Environmental Quality Control. Establishes the Product Stewardship Fund to offset administrative costs.

As a matter of general policy, this department does not support the creation of any special or revolving fund which does not meet the requirements of Sections 37-52.3 and 37-53.4 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 fund will be self-sustaining.

LINDA LINGLE
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SENATE COMMITTEE ON ENERGY AND ENVIRONMENTAL

SB2275, RELATING TO ARCHITECTURAL PAINT

Testimony of Katherine Puana Kealoha
Director of the Office of Environmental Quality Control

February 2, 2010

1 **Department's Position:** The Office of Environmental Quality Control (OEQC) opposes
2 SB2275.

3 **Fiscal Implications:** This bill imposes an annual \$10,000 fee on architectural paint
4 manufacturers to finance an architectural paint stewardship program under OEQC.

5 **Purpose and Justification:** SB2275 amends Chapter 342-I, HRS, and establishes an
6 architectural paint steward program to properly manage post-consumer architectural paint. The
7 bill further requires the participation of architectural producers, distributors, and retailers,
8 establishes an annual \$10,000 fee for participation, and charges the director of OEQC to
9 implement the stewardship program.

10 OEQC's statutory responsibilities under various provisions of Chapter 343 is to
11 administer and process environmental assessments and environmental impact statements.

12 OEQC strongly feels that the administration of an architectural paint stewardship program should
13 be assigned to another agency with statutory responsibility that is more aligned with the
14 proposed action and better equipped with staff and personnel to administer the proposed
15 program.

16 Thank you for the opportunity to testify.



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CATHY L. TAKASE
ACTING DIRECTOR

To: Senate Committee on Energy and Environment
From: Cathy Takase, Acting Director
Date: Tuesday, February 2, 2010, 3:30 p.m.
State Capitol, Conference Room 225
Re: Testimony on S.B. No. 2275
Relating to Architectural Paint

Thank you for the opportunity to submit testimony on S.B. No. 2275. The Office of Information Practices ("OIP") takes no position on the substance of this bill, which is to create a stewardship program, but recommends deletion of the bill's provision that apparently seeks to make data in reports from stewardship organizations confidential.

Specifically, subsection (b) of proposed new section 342I-G of this bill (pages 10 to 11) provides that the data in a report "shall not be subject to disclosure under chapter 92." The bill's reference to chapter 92 is incorrect because disclosure of government records is governed by chapter 92F, HRS, which is the Uniform Information Practices Act (Modified) ("UIPA"), and not chapter 92.

Under this proposed subsection (b), certain data in a report would be confidential even if ordinarily public disclosure would be properly required under the UIPA. For example, the report is required to include "samples of educational materials provided to consumers" which is information that is already made public.

Notably, the UIPA, in section 92F-13, HRS, already provides exemptions from public disclosure that are applicable to information in government records that consists of trade secrets and confidential business information. As drafted, subsection (b) would make confidential any data in a report, regardless of whether it would actually fall within an exception to disclosure under the UIPA.

Therefore, OIP recommends that subsection (b) of the proposed new section 342I-G in the bill be deleted.

Thank you for the opportunity to testify.



Sierra Club Hawai'i Chapter

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SENATE COMMITTEE ON ENERGY AND ENVIRONMENT
February 2, 2010, 3:30 P.M.

(Testimony is 1 page long)

TESTIMONY IN SUPPORT FOR SB 2275 WITH A PROPOSED AMENDMENT

Aloha Chair Gabbard and Members of the Committees:

The Hawai'i Chapter of the Sierra Club supports SB 2275, establishing an architectural paint program in order to better dispose of products that pose a substantial threat or potential hazard to human health and the environment.

The Sierra Club receives inquiries about how to recycle products on a daily basis. It's apparent that most consumers want to do the right thing, but sometimes lack the information on how to proceed. This common sense measure provides information on appropriate recycling measures and takes steps to eliminate waste. It will not only help to increase recycling and divert waste from our crowded landfills, but it will also significantly reduce the contamination arising from the hazardous chemicals contained in paints.

We are uncertain why this measure has a proposed repeal date of 2015 and would suggest amending this section.

Thank you for the opportunity to testify.