



**EXECUTIVE CHAMBERS**  
HONOLULU

LINDA LINGLE  
GOVERNOR

Written Testimony of  
**Linda L. Smith**  
Senior Policy Advisor to the Governor

Before the  
**HOUSE COMMITTEE ON FINANCE**  
Wednesday, March 17, 2010, 2:00 p.m.  
Room 308, State Capitol

**SB2806 SD2 RELATING TO THE EMERGENCY BUDGET AND RESERVE FUND**

Chair Oshiro, Vice Chair Lee, and Members of the Committee:

The Office of the Governor **supports SB2806 SD2**, which is similar to the Administration measure SB2692. The senate draft 2 reflects the Administration's position in SB2692, which requires five percent of year end general fund balances to be deposited into the State Rainy Day Fund when certain conditions are met. Such a proposal is necessary to ensure funds are available for future emergencies by building a financial reserve in good years to offset the state budget shortfall in bad years.

Specifically, SB2806 SD2 sets the condition for depositing into the State Rainy Day Fund at five percent of year end general fund balances whenever state general fund revenues for each of two successive fiscal years exceeds revenues for each of the preceding fiscal years by five percent. Deposits into the fund will occur through a transfer by the Director of Finance, who stops transfers into the Rainy Day Fund whenever the fund balance is more than ten percent of general fund revenues for the preceding fiscal year. In addition, the bill also requires that interest earned from moneys in the Rainy Day Fund to remain in the fund. SD2 also required that carryover

balances deposited into the Rainy Day Fund be kept in a separate account within the fund.

As provided in previous testimony, under this proposal and the original six-year financial plan, the deposit of year end general fund balances into the Rainy Day Fund would begin in fiscal year 2011-2012, when \$1.62 million of the \$32.4 million in year end balance would be deposited into the fund. Over a four year period for fiscal years 2011-2015, an estimated \$33.8 million would be deposited into the Rainy Day Fund, as calculated using the original six-year financial plan. The Department of Budget and Finance is currently revising the financial plan based on the additional revenue shortfall identified by the Council of Revenues on March 11, and we will provide a new estimate for this proposal as soon as the revised financial plan is available.

The purpose of this proposal is not to change the concept or use of the Rainy Day Fund, but rather to ensure a steady source of revenue is available to build the fund balance for future emergencies. We believe that in addition to this measure, a constitutional amendment is the only way to safeguard against expending year end general fund balances that in good years will likely not be saved, but rather spent on new programs and services. As such, we respectfully request that your committee also hear HB2540, the Administration's accompanying constitutional amendment for this measure. Both this measure and HB2540 will increase the State's fiscal discipline by requiring deposits into the State Rainy Day Fund upfront, rather than have these funds remain as carry-over balances, which could easily be expended.

The Office of the Governor supports SB2806 SD2 and respectfully request it be passed from your committee. We also respectfully request that applicable House rules be waived so that HB2540, the constitutional amendment accompanying the Administration measure, can be heard in your committee.

TESTIMONY BY GEORGINA K. KAWAMURA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON FINANCE  
ON  
SENATE BILL NO. 2806, S.D. 2

March 17, 2010

RELATING TO THE EMERGENCY AND BUDGET RESERVE FUND

Senate Bill No. 2806, S.D. 2, amends Section 328L-3, Hawaii Revised Statutes, to allow the Director of Finance to deposit five percent of the general fund balance at the close of the fiscal year, available whenever the State's general fund revenues for each of two successive fiscal years exceeds five percent of general fund revenues for each of the preceding fiscal years, to the Emergency and Budget Reserve Fund. Deposits to the fund are suspended when its balance is more than ten percent of general fund revenues for the preceding fiscal year. This bill requires that tobacco settlement moneys and legislative appropriations deposited to the fund be kept in a separate account from the excess revenues and also amends Act 119, Session Laws of Hawaii 2009, to prevent the repeal of Section 328L-3 on June 30, 2015.

We support this measure. This bill is similar in intent to the Administration's proposal, House Bill No. 2539, Relating to the State Fiscal Stabilization Fund, which, together with House Bill No. 2540, Proposing Amendments to the Constitution of the State of Hawaii Relating to the State Fiscal Stabilization Fund, would establish a mechanism for the State to set aside excess revenues, from periods of economic growth, to a fiscal reserve that would be available to support the State's financial obligations during periods of economic difficulty and would provide an alternative to raising taxes at times when the people of our State can least afford it.

# TAXBILLSERVICE

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TAX FOUNDATION OF HAWAII

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SUBJECT: MISCELLANEOUS, Emergency and budget reserve fund

BILL NUMBER: SB 2806, SD-2

INTRODUCED BY: Senate Committee on Ways and Means

**BRIEF SUMMARY:** Amends HRS section 328L-3 to add a new paragraph (3) to provide that the director of finance shall transfer an amount equal to 5% of the general fund balance at the close of a fiscal year into the emergency and budget reserve fund whenever the state general fund revenues at the close of each of two successive fiscal years exceeds 5% of general fund revenues for each of the preceding fiscal years, pursuant to article VII, section \_\_\_ of the constitution of the state of Hawaii. For the purposes of this section, the general fund balance at the close of the fiscal year shall be determined before any tax refund or tax credit is authorized, pursuant to article VII, section 6 of the constitution of the state of Hawaii. Transfers shall not be made to the emergency and budget reserve fund if the balance of the fund is more than 10% of general fund revenues for the preceding fiscal year.

Requires all moneys deposited into the emergency and budget reserve fund to be kept in separate distinct accounts.

This amendment shall take effect upon approval and upon compliance with article XVII, section 3, of the state constitution; provided that the amendments made to HRS section 328L-3, by section 1 of this act shall not be repealed when HRS section 328L-3 is reenacted pursuant to section 6 of Act 119, SLH 2009.

**EFFECTIVE DATE:** July 1, 2050 and voter approval

**STAFF COMMENTS:** This measure proposes that 5% of the state general fund balance at the close of the fiscal year shall be deposited into the emergency and budget reserve fund whenever state general fund balance for each of two successive fiscal years exceeds revenues for each of the preceding fiscal years by 5%.

While the existing emergency budget and reserve fund was established by the 1999 legislature utilizing the realizations of the Master Settlement Agreement reached with the major tobacco companies, lawmakers have continually dipped into the fund to pay for ongoing programs. This allowed lawmakers to avoid making hard decisions and setting priorities as to which of the ongoing programs should be reduced or eliminated. This was not the intent of the Tax Review Commission in recommending that the state establish an explicit budget stabilization fund. Because the Tax Review Commission indicated that such a fund could be used to provide economic stability or provide direct assistance in the event of a downturn in the economy, it had recommended that it might be prudent to set aside reserves at a higher level than the traditional 5% found in other states' emergency funds.

The emergency budget and reserve fund was viewed as a source of funding in the event of a natural disaster or some unforeseen crisis. It was not intended to supplement ongoing program funding when

current resources were not available as was the situation a few short years ago. This is because the legislature provided that one of the purposes for which appropriations from the fund could be made is to "maintain levels of programs determined to be essential to the public health, safety and welfare." This provision is much too broad and allows lawmakers to escape accountability for prudent use of such emergency funds.

It should be noted that this measure also proposes a cap on the balance that would be allowed in the emergency and budget reserve fund of 10% of general fund revenues. Further, it should be noted that the budget reserve fund is the beneficiary of 15% of the proceeds of the Master Settlement Agreement (MSA). The amount has been estimated to total about \$12 million for the next few years. Further, there is another 15 years under the MSA during which the state will continue to receive payments. Lawmakers need to determine just what an acceptable balance for the fund should be and they must also be more specific about the potential uses of the fund.

This year, for example, the fund has been the target for solving "furlough Fridays" in the department of education as well as for budget shortfalls in the area of health and human services. It does not seem appropriate to use these funds to maintain the status quo in state programs at a time when the entire economy is undergoing stress and downsizing and restructuring is taking place in the private sector. On the other hand, unforeseen events which disrupt daily life in Hawaii, such as hurricanes, earthquakes, or tsunamis, are good examples of appropriate uses of the fund in times of emergencies. Given that deposits into the fund will not be ongoing as it is likely that there will be years when there are no excess revenues, expenditures should be for "one-time" occurrences.

Digested 3/16/10

TO: Committee on Finance  
Rep. Marcus R. Oshiro, Chair  
Rep. Marilyn B. Lee, Vice Chair

FROM: Eldon L. Wegner, Ph.D.  
Policy Board for Elder Affairs (PABEA)

HEARING: 2:00 pm Wednesday, March 17, 2010  
Capitol Room 308

BILL: SB 2806 SD 2 Relating to the Emergency Budget and Reserve Fund

POSITION: PABEA SUPPORTS passage of SB2806 SD2 which would allow excess general funds to be deposited into the Emergency Budget and Reserve Fund.

RATIONALE: PABEA is by statute established to advocate on behalf of the elder population in Hawaii. Our positions do not reflect the position of the Executive Office on Aging.

- § It is prudent for the state to set aside funds during times when revenues result in an excess in general funds so that essential services do not suffer during times of economic turndown.
- § Care for the frail elderly are immediate needs and require that services are provided during good economic times as well as during economic turndowns.
- § We support therefore believe that the Emergency Budget and Reserve Fund should be reserved for its original purpose of providing for essential health and social services during times of economic turndown, and that this fund be replenished during times of economic stability and revenue surplus.

Thank you for the opportunity to testify.



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March 17, 2010

To: The Honorable Marcus R. Oshiro  
Chair, House Committee on Finance

From: 'Ohana Health Plan

Re: Senate Bill 2806, Senate Draft 2-Relating to the Emergency and Budget Reserve Fund

Hearing: Wednesday, March 17, 2010, 2:00 p.m.  
Hawai'i State Capitol, Room 308

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Since February 2009, 'Ohana Health Plan has provided services under the Hawai'i QUEST Expanded Access (QExA) program. 'Ohana is managed by a local team of experienced care professionals who embrace cultural diversity, advocate preventative care and facilitate communications between members and providers. Our philosophy is to place members and their families at the center of the health care continuum.

'Ohana Health Plan is offered by WellCare Health Insurance of Arizona, Inc. WellCare provides managed care services exclusively for government-sponsored health care programs serving approximately 2.3 million Medicaid and Medicare members nationwide. 'Ohana is able to take the national experience in providing an 'Ohana care model that addresses local members' healthcare and health coordination needs.

We appreciate this opportunity to submit our comments in support of Senate Bill 2806, Senate Draft 2-Relating to the Emergency and Budget Reserve Fund.

'Ohana Health Plan (OHP) is one of the five health care plans contracted under the QUEST program through the DHS. As a new plan, operating largely with the support of government funding from the State of Hawai'i, we are deeply concerned about the potential for a three to four month payment deferral. This deferral may impact our ability to pay our contracted providers in a timely manner and could cause a disruption in services to our members, which are low-income, aged, blind and disabled residents of our State.

As a contracted provider of services for the State of Hawai'i, we take our federally mandated responsibility to make covered services available and accessible through a sufficient delivery network very seriously. During this time of economic and financial challenge it has become increasingly important that we explore every possible option available to us, such as this bill, in order to honor our existing financial obligations.

OHP deeply appreciates your assistance in helping to secure additional funding into the HMS 401 budget in order to avoid the DHS payment deferral in the first place. We respectfully request that you pass this measure. Thank you for the opportunity to testify in support of Senate Bill 2806, Senate Draft 2.