



EXECUTIVE CHAMBERS
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LINDA LINGLE
GOVERNOR

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

Before the
HOUSE COMMITTEE ON JUDICIARY
Tuesday, March 9, 2010, 2:05 p.m.
Room 325, State Capitol

**SB2807 SD2 PROPOSING AN AMENDMENT TO ARTICLE VII, SECTION 6, OF THE
HAWAII CONSTITUTION, RELATING TO THE TAX REBATE REQUIREMENT**

Chair Karamatsu, Vice Chair Ito, and Members of the Committee:

The Office of the Governor **expresses concern regarding SB2807 SD2, and prefers HB2539 and HB2540**, which are Administration proposals that create the State Fiscal Stabilization Fund and require five percent of year end general fund balances to be deposited into the fund when certain conditions are met. SB2807 SD2 is a constitutional amendment that allows the Legislature to authorize a constitutional tax refund or deposit excess revenues into the Emergency Budget and Reserve Fund whenever the State's general fund balance at the close of each of two successive fiscal years exceeds five percent of general fund revenues for each of the two fiscal years. Such proposals are 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.

However, we are concern that under this constitutional amendment it is unlikely any funds will be deposited into the Emergency Budget and Reserve Fund in the foreseeable future, since it is unlikely that a deposit will be triggered by this measure from now to 2015, based on the current financial plan.

We believe the purpose of SB2807 SD2 is the same as HB2539 and HB2540, which is to ensure a steady source of revenues is available to build a fund balance for future emergencies. However, HB2539 and HB2540 provide more certainty that moneys will be deposited into a rainy day fund by setting specific conditions for fund deposits, such as:

- 1) Requiring five percent of year end general fund balances to be deposited whenever state general fund revenues for each of two successive fiscal years exceeds revenues for each of the preceding fiscal years by five percent. This actually increases the frequency of deposits when compared to the requirements of SB2807 SD2;
- 2) Requiring deposits into the fund through an automatic transfer by the Director of Finance. This ensures that no means are available for diverting the deposits;
- 3) Ensuring that moneys deposited into the fund will not count toward satisfying the conditions that trigger a constitutional tax refund, as this avoids double counting;
- 4) Stopping deposits into the State Fiscal Stabilization Fund whenever the fund balance is more than ten percent of general fund revenues for the preceding fiscal year. This ensures that constitutional tax refunds can be provided when there is an adequate balance in the State Fiscal Stabilization Fund; and
- 5) Requiring interest earned from moneys in the State Fiscal Stabilization Fund to remain in the fund, which helps to build a healthy fund balance.

As such, we prefer the certainty that HB2539 and HB2540 provide, and therefore respectfully request that a measure with a suitable title be used to insert the constitutional amendment language contained in HB2540. This amendment is necessary to match the fund transfer requirements set forth in SB2807 SD2's companion measure SB2806 SD2, which contains a substantial portion of the Administration's HB2539, as inserted by the Senate Committees on Human Services and Health.

TO : HOUSE COMMITTEE ON JUDICIARY
Rep. Jon Riki Karamatsu, Chair
Rep. Ken Ito, Vice-Chair

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

SUBJECT: SB 2807, SD2 Proposing an Amendment to ARTICLE VII, SECTION 6, of the Hawaii Constitution, Relating to the Tax Rebate Requirement

HEARING: 2:05 pm Tuesday, March 9, 2010
Conference Room 325, Hawaii State Capitol

PURPOSE: Proposes an amendment to authorize the legislature to determine whether excess funds should be used as tax refunds or tax credit or diverted to the State's emergency and budget reserve fund

POSITION: PABEA supports this bill to amend the Hawaii Constitution.

RATIONALE:

I am offering testimony on behalf of PABEA, the Policy Advisory Board for Elder Affairs, which is an appointed board tasked with advising the Executive Office on Aging (EOA). My testimony does not represent the views of the EOA but of the Board. I am also a professor of medical sociology at UH-Manoa who has worked with elderly services in Hawaii for more than 20 years.

As the experience of the current fiscal crisis illustrates, the state needs to have a "Rainy Day" emergency fund to cover essential health and social services during times of economic turn-downs. It is prudent that during times of prosperity, some funds are set aside to assure needed funds during times of revenue short-fall.

The alternative is to reduce or eliminate needed services to the most frail and vulnerable populations – often with tragic and costly consequences. It is important that the Emergency Budget and Reserve Fund continue to have the stipulation that the use of the funds is restricted to providing essential health and social services.

Thank you for the opportunity to testify.



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**TESTIMONY BEFORE THE HOUSE COMMITTEE ON
JUDICIARY**

**RE: SB 2807, SD2 – PROPOSING AN AMENDMENT TO ARTICLE VII,
SECTION 6, OF THE HAWAII CONSTITUTION, RELATING TO THE TAX
REBATE REQUIREMENT.**

March 9, 2010

**WIL OKABE, PRESIDENT
HAWAII STATE TEACHERS ASSOCIATION**

Chair Karamatsu and Members of the Committee:

The Hawaii State Teachers Association supports SB 2807, SD2, proposing an amendment to Article VII, section 6, of the Constitution of the State of Hawaii that would allow the legislature to deposit excess revenues from the general fund into the emergency and budget reserve fund.

There are currently bills before this legislative body that propose using monies from the emergency and budget reserve fund to help offset the current fiscal crisis. This fund is not limitless and will need to be restored for future emergencies. We believe this bill provides one such vehicle to rebuild the fund.

Thank you for this opportunity to testify.

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

BILL NUMBER: SB 2807, SD-2

INTRODUCED BY: Senate Committee on Judiciary and Government Operations

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 proposed 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.

Since the amount to be refunded is always specified by the legislature when the excess revenues provision needs to be addressed, if that track record is any indication, there is little hope that future legislatures will exercise any fiscal discipline in socking away any substantial amount into the “rainy day” fund. Thus, this proposal is nothing more than patronizing to the idea of “saving” for a rainy day while doing away with the mandatory refund credit.

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 3/8/10