

LATE TESTIMONY



February 11, 2011

Senator Will Espero, Chair, Senator Michelle N. Kidani, Vice Chair, and Members of the Senate Committee on Public Safety, Government Operations, and Military Affairs

Testimony in Opposition to SB 1426 Relating to Public Funds (Raid on Rail Tax Surcharge Fund)

Saturday, February 12, 2011 at 10:00 a.m. in CR 229

My name is Dave Arakawa, and I am the Executive Director of the Land Use Research Foundation of Hawaii (LURF), a private, non-profit research and trade association whose members include major Hawaii landowners, developers and a utility company. One of LURF's missions is to advocate for reasonable, rational and equitable land use planning, legislation and regulations that encourage well-planned economic growth and development, while safeguarding Hawaii's significant natural and cultural resources, and public health and safety.

LURF respectfully **opposes SB 1246**, which proposes to: borrow for inclusion in the State general fund, \$200,000,000 generated through a surcharge on state general excise tax revenues and transferred to the City and County of Honolulu (City) specifically to finance the Honolulu rail project; authorize the issuance of \$300,000,000 in general obligation (GO) bonds to reimburse the City; extend the county surcharge for two years; and require a memorandum of understanding between the State and City regarding the transfer of revenues to the State and the GO bond proceeds to the City.

Background of Honolulu Rail Project. The City Council and City Administration have initiated a major mass transit project that has the potential to fundamentally reshape the form and character of Honolulu. A one-half percent tax surcharge for Oahu has been created by the State legislature to specifically finance the rail project. The Council has selected a fixed guide way system and a Locally Preferred Alternative alignment route for the project. In November 2008, Oahu voters approved the rail project, evidencing the public's support to build the rail project. An environmental impact statement has been prepared, and appropriate transit-oriented development (TOD) land use regulations are being developed for areas along the alignment and around the rapid transit stations. Rapid transit on Oahu will stimulate more compact development around transit stations, thereby reducing urban sprawl. The more intense use of land will produce community benefits, such as affordable housing, open plazas, and parks. The rail project will also contribute to the protection of the environment by reducing the use of fossil fuels and emissions by automobiles, and by promoting clean energy to provide transportation.

LURF's Position. While LURF recognizes and understands the difficult economic situation faced by the State, it must oppose this bill for the following reasons:

➤ **Revenue Derived from Taxes Levied for a Specific Project Should Not be Diverted and Used for Other Purposes.**

When the State government passes a law to impose taxes for a specifically identified purpose (in this case, rail transit), and the beneficiary of such legislation (in this case, the City) has relied upon, and is prepared to imminently utilize the anticipated tax revenues for that specifically identified purpose (in this case, the rail transit project), the State, pursuant to basic principles of fairness and equity, as well as the legal doctrine of reliance, should not be allowed to later divert and use such tax revenues for other purposes (e.g., to balance the State's budget), particularly when there may be other alternatives available to the State to address funding issues relating to that other, unanticipated purpose.

➤ **Prior Attempts to Introduce Same Legislation Have Failed.**

Over the past few years, similar attempts to introduce legislation virtually identical to the subject bill have been made unsuccessfully. SB 1426 is practically a repeat of SB 2653 introduced in 2009 and 2010, except with the addition of a requirement for the State and City to enter into a memorandum of understanding (MOU) regarding the transfer of revenues and GO bond proceeds between them. The inclusion of this MOU requirement, however, does not at all alter or affect the basis for LURF's opposition to this bill.

SB 1426 essentially proposes to raid monies from a fund which was specifically designated and created to pay for the transit project. This proposed diversion of the transit tax funds to the State's general fund via SB 1426 could cause a delay of Honolulu's rail transit project, which in turn, would not only increase costs, but potentially cause the State to miss the opportunity to receive and utilize millions of federal funding dollars allocated toward the project. As a result, the transit project may be killed altogether.

➤ **LURF's opposition to SB 1426 is furthered by the following concerns and considerations:**

- **Delays in funding could derail the transit project.** Any delay in the project will likely lead to the project being "derailed!" Hawaii's congressional delegation has forewarned State officials that any delay in the rail project, or any effort to tamper with the dedicated funding source, will send a negative message to Congress that could put federal funding in jeopardy.
- **The transit project will help stimulate the economy and increase State tax revenues.** Due to current economic hard times, the construction industry is experiencing a slowdown; the transit project is expected to generate an estimated 11,000 jobs over the next eight years. SB 1426 could jeopardize one of the most important public works projects in Hawaii's history and could endanger federal funding, as well as the investment of private money in the transit-oriented development projects envisioned to be constructed around each of the train stations. SB 1426 may result in the loss of thousands of jobs and revenues that the City and State governments could use.
- **SB 1426 could postpone TOD and affordable housing.** It is important to note that the rail project will not only create jobs, stimulate the economy and decrease traffic from West Oahu; it will also generate investment of private money into transit-oriented development (TOD) projects around each of the transit stations. TOD will also result in the building of more affordable housing, which can be

constructed around transit stations to ease commutes and encourage a walking community.

- **The rail project protects our environment.** The rail project provides a “sustainable” and “clean energy” transportation alternative to traffic congestion on Oahu, and protects the environment by reducing the use of fossil fuels and auto emissions.
- **The legislature should seek other alternatives to balance the State budget.** LURF understands that the legislature is facing a very difficult challenge in balancing the State’s budget, however, it believes that the rail project deserves strong support, as it is one of the very few initiatives which will actually generate more state and county revenue in the coming years. LURF encourages and supports the legislature’s efforts to seek other, more viable alternatives to secure revenues or reduce costs rather than attempting to raid the rail fund.

Based on the above, LURF respectfully requests that **SB 1426 be held** in this Committee.

Thank you for the opportunity to present our testimony regarding this matter.

LATE TESTIMONY

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GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII

Quality People. Quality Projects.

February 10, 2011

TO: THE HONORABLE SENATOR WILL ESPERO, CHAIR AND MEMBERS OF THE
COMMITTEE ON PUBLIC SAFETY, GOVERNMENT OPERATIONS, AND
MILITARY AFFAIRS

SUBJECT: S.B.1426, RELATING TO TAXATION.

AMENDED NOTICE OF HEARING

DATE: Saturday, February 12, 2011
TIME: ~~9:00 a.m.~~ **10:00 a.m.**
PLACE: Conference Room 229

Dear Chair and Members of the Committee:

The General Contractors Association (GCA), an organization comprised of over five hundred and seventy (570) general contractors, subcontractors, and construction related firms, is **opposed** to the passage of S.B.1426, Relating To Taxation.

The Bill proposes to borrow the sum of two hundred million dollars (\$200,000,000), from the surtax of one half of one per cent, imposed on Oahu taxpayers to finance the construction of a rail system on Oahu. The money raised by this tax was intended to pay for the construction of the rail system and should not be used for any other purpose. Any action to use such funds for other purposes even on a temporary basis could jeopardize the receipt of future federal funds for the project.

The GCA believes that this large construction project will create many new jobs and ultimately help Hawaii to alleviate the some of the effects of our current poor economic situation.

We should not do anything that may result in the loss of this potential to create new jobs for our resident construction workers.

The GCA is **opposed** to the passage of S.B.1426, and recommends that the bill be held.

Thank you for the opportunity to provide our views on this issue.

February 11, 2011

The Honorable Will Espero, Chair and Member
Committee on Public Safety, Government Operations, and Military Affairs
State Senate
State Capitol, Room 229
Honolulu, Hawaii 96813

Dear Chair Espero:

Subject: Senate Bill No. SB 1426 Relating to Taxation

My name is Lance Wilhelm, lifelong resident of Honolulu, currently residing in Royal Kunia, Oahu.

I strongly opposes S.B. No. 1426

The Senate Bill suggests that, based on current economic conditions, \$200,000,000 be diverted from the county surcharge specifically created and set-aside to fund the Honolulu High Capacity Transit System, and to reimburse those funds through general obligation bonds and an extension of the sunset of Act 247 by two years. My opposition of the Bill is based on the following points:

- 1) The citizens of Honolulu have clearly said they want a rail transit system, not once, but several times, in polls, at the ballot box, and through the actions of their elected representatives on the City Council and the Mayor's office. The funds this Bill seeks to divert, have been collected with one and only one purpose in mind, and that is to fund the system that the citizens want. To divert these funds would be to ignore the will of the people.
- 2) The eyes of the US Federal Government are on Hawaii at this critical juncture for the project. Any attempt to slow, modify, or alter the plans currently underway, would signal a lack of support for the project. The likely outcome of a manipulation of the funds as suggested by the bill would be the withdrawal of fiscal support from the Federal government, effectively killing the project. No effort to resuscitate this project, or any other large transportation project requiring federal funding, will ever be successful in our lifetime.
- 3) The citizens of West Oahu have had to bear the costs of growth in Ewa, Kapolei, Makakilo and other West Oahu communities. These communities did not just happen to sprout up on this end of the island, they were developed as part of the State's long term growth plans. Among the most significant of these costs is the crushing traffic that residents endure daily. Not only are thousands of individual's quality of life impacted by

the traffic, the actual costs to our economy from the lack of productivity caused by traffic, is enormous and grows day by day, week by week, and year by year. The rail project represents our best chance to provide a reliable and economical alternative for the residents in West Oahu and throughout the transit corridor.

- 4) While some of the State's financial challenges may be addressed through this bill, it is clear that its effect will be very short term in nature. Long term improvement to the State's fiscal health can only be made through growth in the economy as a whole. This bill will in fact, have the exact opposite effect. By killing the rail project, you will be stifling business when you could be encouraging business, and reducing tax receipts when you could be increasing tax receipts. It is precisely this type of short-term, quick-fix, narrow minded thinking that has prevented Hawaii from becoming the vibrant and dynamic place we all want it to be.

It is at challenging moments like this, that we look to our leaders to have a steady eye on the horizon. Think about our future and about the future of our children and stop this Bill from moving forward. I thank you for this opportunity to express my views.

Mahalo,

A handwritten signature in black ink, appearing to read "Alan Wong". The signature is written in a cursive style with a large, stylized initial "A".