

**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804
Web site: www.hawaii.gov/dbedt

Telephone: (808) 586-2355
Fax: (808) 586-2377

Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the

HOUSE COMMITTEE ON FINANCE

Thursday, March 31, 2011
5:00 pm
State Capitol, Conference Room 308

in consideration of
SB 752 SD2 HD1
RELATING TO ECONOMIC DEVELOPMENT.

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

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of SB 752 SD2 HD1 that proposes that the Community-Based Economic Development (CBED) and Enterprise Zone (EZ) Programs' personnel and operating costs be funded through the Community-Based Economic Development Revolving Fund; clarifies that monies in the Hydrogen Investment Capital Special Fund are to be expended by the Hawaii Strategic Development Corporation; and establishes the DBEDT Operation Special Fund. We defer testimony on Part II of this bill to the Hawaii Strategic Development Corporation.

DBEDT believes that the CBED and EZ programs are important economic generators for the State, and have the potential to significantly assist Hawaii's small businesses, expand job creation, and build the capacity of the community-based non-profit sectors towards sustainability through financial and technical assistance to develop more healthy economic environments in our communities.

DBEDT further agrees that establishing the DBEDT Operation Special Fund through a surcharge upon fees for certain business- and commerce-related services by certain departments, used wisely, will result in increased business activities for the majority of fee payers in the near and long-term. Building the capacity of Hawaii's businesses to create more and better paying

jobs, and providing opportunities to expand and leverage limited resources, are the building blocks towards moving our economy out of this recession.

Thank you for the opportunity to provide these comments.



**STATE OF HAWAII
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321
HONOLULU, HAWAII 96813
www.hawaii.gov/labor
Phone: (808) 586-8842 / Fax: (808) 586-9099
Email: dlir.director@hawaii.gov

March 31, 2011

To: The Honorable Marcus Oshiro, Chair
and Members House Committee on Finance

Date: Thursday, March 31, 2011
Time: 5:00 pm.
Place: Conference Room 211, State Capitol

From: Dwight Y. Takamine, Director
Department of Labor and Industrial Relations

**Re: S.B. No. 752, S.D.2 H.D.1 Relating to the Department of Business, Economic
Development, and Tourism**

I. OVERVIEW OF PART 3 OF PROPOSED MEASURE

- A. Establish a new special fund for the operation of the department of business, economic development, and tourism, and
- B. Impose a \$20 surcharge on certain business- and commerce-related fees and require the surcharge revenues to be deposited into the special fund.

II. CURRENT LAW

N/A

III.SENATE BILL 752, S.D.2H.D.1

- A. The Department will confine its comments on the measure to Part 3 only. Within the department of labor and industrial relations, the proposal would affect the following programs:

Certification/Permitting Operation	Approx Nos.	Range of Fees
Hoisting Machine Operators	200	\$ 50 - \$ 500
Blaster or Pyrotechnics Operator	150	\$50 - \$150
Safety & Health Professional	25	\$ 50 - \$300
Boiler Inspection and Permitting	12,000	\$ 35 - \$1,060
Elevator Inspection and Permitting	6,800	\$100 - \$450

Therefore, the proposed \$20 surcharge would affect 375 individuals and 18,800 businesses with a fee increase ranging from 40% to 2%.

Annual fees collected for the DBEDT special fund by the above programs would be approximately \$160,000 per year as not all fees are paid on an annual basis.

- B. The department offers the following comments on the measure:
1. The fee would cripple the Boiler and Elevator Inspection Branch and adversely affect the state's economic recovery. Developers installing elevators, escalators, dumbwaiters, and handicap lifts would not be able to get their permits to install or permit to operate on a timely basis thus delaying the start of the business, or compromising the business's ability to provide elderly or the mobility impaired access to their services.

The software program used by the department for boilers and elevators is not capable of accounting for a separate surcharge and would therefore not be able to identify and separate the amounts that would be deposited into a separate fund versus the amount that goes into the general fund.

The software program is no longer being supported by the vendor and is not capable of being easily re-programmed to support the identification of a separate surcharge. The approximate cost of obtaining a new software program has been estimated to be over \$100,000.

If the HIOSH Boiler and Elevator Inspection Branch, which lost all clerical support with the reduction-in-force of November 2009, had to

manually handle the transactions, no other activity, such as issuing permits could be performed. No permits means that developers could not obtain their Certificate of Occupancy from the counties, legally operate their elevators, escalators, and dumbwaiters, and would suffer significant economic losses.

2. The nexus between the activities of the department of business, economic development, and tourism and the additional benefit to the businesses regulated by the department of labor and industrial relations is not as certain and tangible as the benefit to the businesses of having their permits issued on a timely basis.

Permits for boilers and elevators are backlogged by approximately 3 months as of today, e.g., inspections conducted of elevators on November 1, 2010 have yet to receive a permit to operate. The reduction-in-force of November, 2010 eliminated the clerical support whose function was to input the inspection data and generate the report and permits to operate. Without a permit to operate, new businesses are unable to begin operations and existing businesses may face an increase in insurance premiums because of the added liability to the property owner.

The department believes that a more appropriate boost to business would be to adequately fund existing operations that have a more direct impact on business operations and revenue. Businesses we contacted are willing to support an increase in fees only if the fees are dedicated to the inspection and permitting of their specific business activity, e.g. boiler and elevator installation and operation.

3. The fee surcharge is regressive - disproportionately affecting an individual blaster by increasing his/her fees by 40% each year, whereas the owner of a large power boiler would experience a fee increase of only 2%. Small business would be affected more severely by this surcharge.

The first three activities are certificates issued to individuals. The application fee is \$50, the initial certification fee ranges from \$150 to \$500 with renewal fees of \$50 a year to \$500 for a 5-year renewal. There are also special boiler inspector commission fees ranging from \$250 for the examination fee to \$35 for a 3-year renewal fee.

Boiler and elevator installation and inspection fees are assessed to building owners or contractors of new or renovated buildings or businesses. Many

of these are small business owners with a single air compressor or a single commercial rice cooker.

4. The language of the measure is unclear. It requires a “surcharge of \$20 upon every fee charged by the department of labor and industrial relations pertaining to the regulation of a boiler installer or installation, and elevator mechanic or installation”. As the department does not regulate boiler installers or elevator mechanics, it is unclear whether the term “installation” refers to the act of installing, or the premises, “the installation”.

If the term “installation” means the act of installing, then it would only apply to the installation permits, which number approximately 200 per year in total. If the term “installation” means the premises, then it would apply to all regulatory activity affecting the building or establishment. This definition of “installation” would affect approximately 18,800 establishments over a 4-year period – many of whom are very small businesses. The department believes the intent of the bill is this latter definition. However, if the measure moves forward, we request that the language be more clearly written to preclude legal challenge on who should pay this surcharge.

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 752, S.D. 2, H.D. 1

March 31, 2011

RELATING TO ECONOMIC DEVELOPMENT

Senate Bill No. 752, S.D. 2, H.D.1, expands the use of the Hawaii Community-Based Economic Development Revolving fund into which revenues from: 1) the repayment and the interest on loans to community-based economic development enterprises and 2) fees from workshops and conferences are deposited, to include the funding of: 1) the Community-Based Economic Development Advisory Council and 2) the operational expenses of the Community-Based Development Technical and Financial Assistance and Enterprise Zone program.

Senate Bill No. 752, S.D. 2, H.D.1, also establishes the Department of Business, Economic Development and Tourism Operation Special Fund and assesses a \$20 surcharge in addition to the various fees charged by the: Department of Commerce and Consumer Affairs; Public Utilities Commission; Department of Labor and Industrial Relations; and the Department of Taxation, and deposits the proceeds of the surcharge into the newly created operation special fund from July 1, 2011 through June 30, 2015.

The department recognizes the benefit of user fees to offset operational expenses and costs. As a matter of general policy, the Department of Budget and Finance expects any revolving or special fund would meet the requirements of

Section 37-52.3 and Section 37-52.4 of the Hawaii Revised Statutes: 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. In regards to Senate Bill No. 752, S.D. 2, H.D. 1, it is difficult to determine whether the funds will be self-sustaining.



NEIL ABERCROMBIE
GOVERNOR

BRIAN SCHATZ
LT. GOVERNOR

STATE OF HAWAII
OFFICE OF THE DIRECTOR
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
335 MERCHANT STREET, ROOM 310
P.O. Box 541
HONOLULU, HAWAII 96809
Phone Number: 586-2850
Fax Number: 586-2856
www.hawaii.gov/dcca

KEALI'I S. LOPEZ
DIRECTOR

EVERETT S. KANESHIGE
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-SIXTH LEGISLATURE
REGULAR SESSION, 2011

Thursday, March 31, 2011
5:00 p.m.

TESTIMONY ON SENATE BILL NO. 752, S.D. 2, H.D. 1 - RELATING TO ECONOMIC DEVELOPMENT

TO THE HONORABLE MARCUS R. OSHIRO, CHAIR, AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs (Department) appreciates the opportunity to provide comments on Senate Bill No. 752, Senate Draft 2, House Draft 1 relating to economic development. My name is Keali'i Lopez, and I am the Director of the Department (DCCA).

SB 752, SD2, HD1 proposes, among other things, to add, for a period of several years, a \$20 surcharge on every fee charged by the Department for the:

- (1) Application, issuance, renewal, or reissuance of a license, permit, or other authorization for a profession, business, or occupation;
- (2) Examination or audit of a person engaged in a profession, business, or occupation;
- (3) Filing, registration, or renewal of a corporate or other business document;

- (4) Application for or registration of a trade name, trademark, or service mark;
or
- (5) Tax on insurance premiums.

The proposed \$20 surcharge, in essence, amounts to a tax increase on businesses. From a policy standpoint, the imposition of the proposed surcharge is inconsistent with the Department's long standing focus of reducing the cost of doing business in Hawaii. The Department understands the revenue picture and that principle must be balanced against the need for additional general fund revenues.

Finally, the bill states that the Legislature believes that fees for business- and commerce-related permits and authorizations have a nexus to the business climate and economic performance of the State. If so, the nexus between these very different business aspects would seem to be directly contrary to each other. For example, it would seem likely that imposition of additional fees and surcharges for business- and commerce-related permits and authorizations would have a negative impact on the business climate especially for small businesses. Inasmuch as the majority of businesses in the State are small businesses, this would likely result in a negative impact rather than a positive impact on the State's business climate and economic performance.

Thank you, for the opportunity to provide testimony on this bill.



**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 587-4700 Fax: (808) 587-4703
<http://hawaii.gov/spo>

TESTIMONY
OF
AARON S. FUJIOKA
ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE
HOUSE COMMITTEE
ON
FINANCE

March 31, 2011

5:00 PM

SB 752, SD 2, HD 1

RELATING TO ECONOMIC DEVELOPMENT.

Chair Oshiro, Vice-Chair Lee and committee members, thank you for the opportunity to testify on SB 752, SD 2, HD 1. This testimony is limited to SECTION 3 of the bill. The State Procurement Office (SPO) opposes the amendment in SECTION 3 which proposes to exempt the Hawaii community-based economic development revolving fund from chapter 103D, the Hawaii Public Procurement Code (Code).

Essentially SECTION 3 would allow grants under chapter 210D to be awarded only in accordance with §210D-11, *Grants; conditions and qualifications*. This section does not have procedures or processes towards providing for any open, fair and transparent method of selecting the grant applicant. There needs to be a clear and fair process in the awarding of state grants to ensure all participants are afforded equal opportunity to obtain grant funds.

The Code's primary objective is to give everyone equal opportunity to compete for Government contracts; to prevent favoritism, collusion or fraud in awarding of government funds. Meeting this objective requires a single set of statutes and rules that define and mandate the use of selection processes that are competitive, efficient, fair, transparent, open and impartial.

If the Legislature intends to exempt specific funds from the Code, the exemption should include assurances that the agency's exempt process includes fair and open competition, disclosure, transparency, due process for aggrieved parties, a defined selection and awards process, and the various elements contained in the Code to ensure public confidence that the exempt procurement process is fair.

We request that the language "and chapter 103D" in SECTION 3, page 2, lines 18 and 19, be stricken from this bill. Thank you.

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Surcharge fee on certain services

BILL NUMBER: SB 752, HD-1

INTRODUCED BY: House Committee on Economic Revitalization and Business

BRIEF SUMMARY: Adds a new section to HRS chapter 92 to provide that between July 1, 2011 and June 30, 2015, a surcharge of \$20 shall be added to every fee charged by: (1) the department of commerce and consumer affairs for the: (a) application, issuance, renewal, or reissuance of a license, permit, or other authorization for a profession, business, or occupation; (b) examination or audit of a person engaged in a profession, business, or occupation; (c) filing, registration, or renewal of a corporate or other business document; (d) application for or registration of a trade name, trademark, or service mark; or (e) tax on insurance premiums; (2) the public utilities commission pertaining to the regulation of a public utility or the filing of any document; except a telecommunications carrier that is the carrier of last resort; (3) the department of labor and industrial relations pertaining to the regulation of a hoisting machine operator, blaster or pyrotechnics operator, safety and health professional, boiler installer or installation, and elevator mechanic or installation; and (4) the department of taxation for the application, issuance, renewal, or reissuance of a license, permit, certificate, or other authorization required under the following taxes: (a) general excise; (b) transient accommodations; (c) rental motor vehicle and tour vehicle; (d) liquor; (e) cigarette and tobacco; (f) liquid fuel; (g) public service company; and (h) banks and financial corporations.

Defines "fee" for purposes of the measure.

No surcharge shall be added to: (1) any service for which no fee is charged; (2) any fine for a violation of a state law; (3) any fee for the dissemination or copying of a public record; or (4) any fee charged to a state, county, or federal agency.

Adds a new section to HRS chapter 201 to establish the department of business, economic development and tourism (DBEDT) special fund between July 1, 2011 and June 30, 2015. Moneys in the special fund shall be expended for the operations of the department, including the salary and fringe benefit costs of department personnel. Transfers any unexpended and unencumbered moneys remaining in the special fund on July 1, 2015 to the general fund.

Amends HRS section 210D-4 to provide that funds in the Hawaii community-based economic development revolving fund shall be used to fund: (1) the operations of the community based economic development technical and financial assistance program and the enterprise zone program; (2) fund the operations of the community based economic development advisory council; and (3) make grants and loans in accordance with this chapter.

EFFECTIVE DATE: July 1, 2112

STAFF COMMENTS: This measure proposes to impose a surcharge of \$20 on certain fees assessed by the department of commerce and consumer affairs, the public utilities commission, the department of labor and industrial relations and the department of taxation. The proceeds of the surcharge are to be deposited into a DBEDT special fund that shall be used for the operations of DBEDT including salary and fringe benefit costs of its employees. While the measure proposes that revenues from the DBEDT special fund shall be used to pay for the operation of DBEDT, it is questionable whether the special fund would be the only source of funding for DBEDT as there is no provision to disconnect DBEDT from receiving funds from the state budgetary process. If the special fund is the sole source of funding for DBEDT, and if the revenues from the surcharge are insufficient, there is no doubt the surcharge amount will have to be increased to provide adequate funds to operate DBEDT resulting in an indirect "tax increase" to taxpayers.

It should also be noted that the proposed measure would add another special fund to the numerous other special funds. It should also be remembered that the State Auditor's report on special funds noted that: "Special funds give agencies full control of these unappropriated cash reserves, provide a way to skirt the general fund expenditure ceiling, and over time erode the general fund. Many experts say that special funds are likely to hamper budget administration. And from a legislative perspective, they are less desirable because they are not fully controlled by the appropriation process."

Given the findings of the Auditor and the current financial crisis, it is quite clear that the creation of numerous special funds has eroded the integrity of state finances. It should be remembered that moneys in special funds are neither subject to the general fund expenditure limitation nor to the close scrutiny that general funds are subject to in the budgeting process. The use of special funds which fly under the radar will inevitably lead to a call for tax increases even though money abounds in these special funds. One only has to review the measures introduced each year that set up numerous new special funds or add new fees or charges the receipts of which are earmarked for special funds, to see the prolific establishment of special funds. Rather than create another special fund which will allow DBEDT to operate without financial scrutiny, lawmakers should repeal the numerous special funds and require these programs to compete for general funds like all other programs.

Although conjecture, it would appear that the rationale behind this measure is that all of the fees targeted for the surcharge are fees paid by businesses in the state and that somehow these businesses should give a little more to support the department that oversees the development of the business community and the economy as a whole. That is the kind of logic that leads policymakers to believe that taxes can be raised on businesses much as the counties impose higher real property tax rates on non-residential properties while lowering the rates on residential properties. Unfortunately, that added burden on businesses must be passed on to the customers of those businesses, customers who are consumers of the goods and services those businesses sell. Thus, this proposal represents nothing more than an indirect tax increase on all consumers/taxpayers in the state as well as outside the state for those businesses who export their goods and services.

If lawmakers lack the funds and truly can't fund the department, then raise the income tax so that at least taxpayers will know that they are being taken to the cleaners. Hiding a revenue increase in fees paid by businesses is less than honest. Probably the most insulting of the surcharge is the surcharge on the payment of insurance premiums taxes, or in other words, the taxpayers has to pay an additional fee so he can have the privilege of paying taxes due to the state.



**Testimony to the House Committee on Finance
Thursday, March 31, 2011
5:00 p.m.
State Capitol - Conference Room 308
Agenda #4**

**RE: SENATE BILL NO. 752 SD2 HD1 RELATING TO ECONOMIC
DEVELOPMENT**

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

My name is Jim Tollefson and I am the President and CEO of The Chamber of Commerce of Hawaii ("The Chamber"). I am here to state The Chamber's concerns with SB 752 SD2 HD1.

The Chamber is the largest business organization in Hawaii, representing more than 1,000 businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of its members, which employ more than 200,000 individuals, to improve the state's economic climate and to foster positive action on issues of common concern.

The Chamber is concerned with the sections that impose significant increased surcharges on certain business and commerce-related fees.

Although the Chamber understands the intent of this measure, we believe that during this tough economic climate, this measure will have a difficult fiscal impact on small businesses and non-profits, especially those who will pay multiple surcharge fees.

Thank you for the opportunity to provide testimony.



The REALTOR® Building
1136 12th Avenue, Suite 220
Honolulu, Hawaii 96816

Phone: (808) 733-7060
Fax: (808) 737-4977
Neighbor Islands: (888) 737-9070
Email: har@hawaiiirealtors.com

March 31, 2011

The Honorable Marcus R. Oshiro, Chair
House Committee on Finance
State Capitol, Room 308
Honolulu, Hawaii 96813

RE: S.B. 752, S.D. 2, H.D. 1, Relating to Economic Development

HEARING: Thursday, March 31, 2011, at 5:00 p.m.

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

I am Myoung Oh, Government Affairs Director, testifying on behalf of the Hawai'i Association of REALTORS® ("HAR"), the voice of real estate in Hawai'i, and its 8,500 members. HAR **opposes Section 9** of S.B. 752, S.D. 2, H.D. 1, which imposes a surcharge of \$20 upon every fee charged by certain departments for certain business and commerce related services.

While HAR understands the State's need for new sources of revenue in these tough economic times, the fee increases will impact both the cost of doing business in Hawai'i and for real estate licensees to engage in the practice of their business.

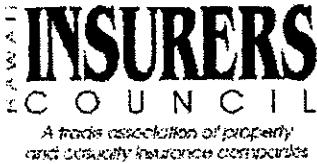
These following surcharges are of concern:

- The Department of Commerce and Consumer Affairs for the application, issuance, renewal, or reissuance of a license, permit, or other authorization for a profession, business, or occupation.
- The Department of Taxation for the application, issuance, renewal, or reissuance of a license, permit, certificate, or other authorization required under the following taxes: General Excise; Transient Accommodations; Rental Motor Vehicle and Tour Vehicle; Liquor; Cigarette and Tobacco; Liquid Fuel; Public Service Company; and Bank and Financial Corporation.

The above proposed fees are paid by businesses and individuals who do business here in Hawai'i. Hawai'i consumers and independent employees can ill-afford this additional cost in these tough economic times.

Mahalo for the opportunity to testify.





Pauahi Tower, Suite 2010
1003 Bishop Street
Honolulu, Hawaii 96813
Telephone (808) 525-5877
Facsimile (808) 525-5879

Alison Powers
Executive Director

TESTIMONY OF ALISON POWERS

HOUSE COMMITTEE ON FINANCE
Representative Marcus R. Oshiro, Chair
Representative Marilyn B. Lee, Vice Chair

Thursday, March 31, 2011
5:00 p.m.

SB 752, SD 2, HD 1

Chair Oshiro, Vice Chair Lee, and members of the Committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes Part III** of SB 752, SD 2, HD 1, which would create a new special fund for the operation of the Department of Business, Economic Development and Tourism (DBEDT) to be funded by assessing a \$20.00 surcharge on various fees charged by the Department of Commerce and Consumer Affairs (DCCA), Public Utilities Commission, Department of Labor and Industrial Relations and the Department of Taxation.

Hawaii Insurers Council opposes Part III of this bill on several grounds. First, as a matter of fundamental fiscal policy, the special fund proposed in this bill does not meet the statutory criteria set forth in Hawaii Revised Statutes §37-52.3 for the establishment of special funds. Specifically, §37-52.3 provides that the Legislature, in establishing special funds, is to ensure that such funds reflect "a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program, as opposed to serving primarily as a means to provide the program or users with an automatic

means of support that is removed from the normal budget and appropriation process.” The disproportionate and diverse impact of the \$20 surcharge proposed in Part III of SB 752, SD 2, HD 1 is so diverse and far ranging that it is difficult to discern any direct nexus to the users or beneficiaries of programs administered by DBEDT. The new special fund that would be created by this part also fails to meet the additional criteria set forth in §37-52.3 of providing “an appropriate means of financing for the program or activity; and [demonstrating] the capacity to be financially self-sustaining.” Accordingly, the special fund proposed in this bill is fundamentally flawed and contrary to the statute governing the establishment of special funds.

It is relevant to note that the \$20 surcharge proposed in this bill would have a disproportionate impact on the property and casualty insurance industry by imposing the surcharge on all insurance-related licensees, including insurers, agents, adjusters and bill reviewers, as well as imposing an additional \$20 surcharge on the “tax on insurance premiums.” This \$20 surcharge would be on top of a new tax just imposed on the insurance industry. Act 59, 2010 (HB 1985, SD1, CD1) doubled all statutory fees for the insurance industry in a separate tax for four years. The property and casualty insurance industry in Hawaii already pays substantial government imposed fees and taxes, including the highest premium tax rate for property and casualty insurance in the nation. In addition to a very high premium tax, which goes into the state general fund, property and casualty insurers are also required to pay an annual assessment to the CRF, as well as underwriting the cost of the Workers’ Compensation Special Compensation Fund, the Hawaii Joint Underwriting Plan, the Hawaii Property Insurance Association and the Hawaii Insurance and Guaranty Association. Simply stated, the property and casualty insurance industry in Hawaii is already paying more than its fair share to regulate itself and support the operations of the DCCA. To impose the additional expense of multiple \$20 surcharges contemplated in this bill would be grossly unfair to the insurance carriers doing business in this state and the consumers and businesses they serve who would ultimately bear this additional expense.

Hawaii Insurers Council
March 31, 2011

Page 3

FIN
SB 752, SD 2, HD 1

For the foregoing reasons Hawaii Insurers Council respectfully requests that Part III of SB 752, SD 2, HD 1 be deleted.

Thank you for the opportunity to testify.



Property Casualty Insurers
Association of America

Shaping the Future of American Insurance

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

From: Mark Sektnan, Vice President

Re: SB 752 S.D.2 H.D.1: Relating to Economic Development
PCI Position: Oppose (Part 3 of the Bill)

Date: Thursday, March 31, 2011
5 p.m.; Conference Room 308 (Agenda #4)

Aloha Chair Oshiro and Members of the Committee:

The Property Casualty Insurers Association of America (PCI) is opposed to Part III of SB 752 S.D.2 H.D.1, which establishes the Department of Business, Economic Development, and Tourism ("DBEDT") Operation Special Fund to support operations and imposes a temporary surcharge on certain fees charged by certain departments for deposit into the fund.

PCI is opposed to Section 9 of this bill which permits the Department of Commerce and Consumer Affairs ("DCCA") to impose a \$20 surcharge on professional licenses including those of agents, adjusters and bill reviewers. These fees were recently raised in legislation last year and the additional surcharge will impose a significant financial burden on PCI members who rely on services. In addition, it is difficult at best, to determine the relationship or nexus between these surcharges and the regulation of insurance.

Additionally, it appears Section 9 will impose a surcharge on the tax on insurance premiums. Hawaii already has the highest premium tax rate in the nation and this increase will negatively impact low income policyholders who must have insurance but struggle in this current economic environment to maintain basic needs.

For these reasons, PCI asks the committee to delete provisions in Part III of this bill.

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

ALII PLACE, SUITE 1800 • 1099 ALAKEA STREET
HONOLULU, HAWAII 96813

MAIL ADDRESS: P.O. BOX 3196
HONOLULU, HAWAII 96801

TELEPHONE (808) 547-5600 • FAX (808) 547-5880
info@goodsill.com • www.goodsill.com

INTERNET:
gslovin@goodsill.com
ahoriuchi@goodsill.com
meito@goodsill.com
cnoh@goodsill.com
ckstamatsu@goodsill.com

GOVERNMENT RELATIONS TEAM:
GARY M. SLOVIN
ANNE T. HORIUCHI
MIHOKO E. ITO
CHRISTINA ZAHARA NOH
CHRISTINE OGAWA KARAMATSU

TO: Representative Marcus Oshiro
Chair, Committee on Finance
Hawaii State Capitol, Room 306
Via Facsimile: 586-6001

FROM: Gary M. Slovin

DATE: March 31, 2011

RE: S.B. 725, SD2 – Relating to Solid Waste
Hearing: April 1, 2011 at 2:00 p.m.; Agenda #1

Dear Chair Oshiro and Members of the Committee on Finance:

I am Gary Slovin, submitting comments on behalf of PVT Land Company, the owner and operator of the PVT Construction and Demolition Landfill (“PVT”) in Nanakuli. PVT owns and operates Oahu’s only landfill for the disposal of construction and demolition debris.

PVT Land Company **opposes** S.B. 725, SD2, which applies the solid waste surcharge to waste that is deposited in landfills, incinerators, or waste-to-energy facilities, whether the waste is disposed of in-state or transferred out of state.

This bill expands the application of the solid waste surcharge from disposal facilities to facilities that recycle waste and create renewable energy, such as waste-to-energy facilities. PVT believes such expansion is inconsistent with both the original intent of the law and state policy, both of which are to encourage the development of alternative fuels so as to minimize the state's dependence upon fossil fuels. Expanding this surcharge to waste-to-energy projects would tend to defeat this policy and would send a message to potential investors in such projects that the State is not committed to alternative energy. PVT has been working with an alternative energy company, Honua, that would take material from the PVT landfill and convert it to energy for Hawaiian Electric Company.

March 31, 2011
Page 2

Hawaii Revised Statutes Section 342G-63(c) indicates that the surcharge on the disposal of solid waste was created to fund and encourage waste reduction and recycling, not to tax and thereby discourage these activities. This bill has the opposite effect - it increases the cost of waste reduction, recycling and renewable energy facilities. It will tax companies like Honua whose activities to produce alternative energy should be encouraged. Given that the surcharge is supposed to fund and encourage waste reduction and recycling, it should not be imposed upon waste-to-energy facilities such as the one planned by Honua. Accordingly, we would request that Section 2 of the bill be amended to exclude waste to energy facilities as follows:

Section 342G-62, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is established a solid waste management surcharge. The solid waste management surcharge shall be 35 cents per ton of solid waste that is:

(1) Disposed of within the State at permitted or unpermitted solid waste disposal facilities, and incineration facilities, ~~and waste-to-energy facilities;~~
or . . .

PVT also notes that, as an alternative to the above amendment, it has been working with various stakeholders regarding a proposed draft of this measure, and is hopeful that a compromise between the interested parties can be reached.

Thank you very much for the opportunity to submit testimony on this measure.

HOUSE COMMITTEE ON
FINANCE

March 31, 2011

Senate Bill 752, SD2, HD1 Relating to Economic Development

Chair Oshiro and members of the House Committee on Finance, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm OPPOSES Senate Bill 752, SD2, HD1 Relating to Economic Development to the extent that it attempts to impose any surcharges upon its licenses, fees, renewals and premium-tax payments.

Senate Bill 752, SD2, HD1 is defective in its title by attempting to impose such surcharges upon entities which are regulated by the Department of Commerce and Consumer Affairs. Article III, Section 14 of the Hawaii Constitution states in relevant part:

Section 14. No law shall be passed except by bill. **Each law shall embrace but one subject, which shall be expressed in its title.** (emphasis added.)

The reason for this requirement is to avoid surprise. The title of this measure is "RELATING TO ECONOMIC DEVELOPMENT." The contents of the bill, however, sway far from this mark by attempting to surcharge businesses which have no regulatory connection to the Department of Business, Economic Development, and Tourism. Part III of the measure is clearly a fund raising mechanism for a department, which up until now, has been sustained by the general fund. This bill has no relationship to economic development and is only a subterfuge to tax businesses. Indeed, the contents of the bill make it clear that other departments are collecting this surcharge to fund what is normally funded by the general fund of the state. The policy implications of this bill are far reaching, because if adopted by the legislature and this state, presumably one could surcharge school students who board public buses a surcharge fee for the department because they benefit from the economy; or, income tax filers could be surcharged to file their income taxes because it increases business activities. The nexus is strained logic.

Moreover, the logic is further strained by imposing a surcharge on the payment of premium taxes to the state, a requirement of the state to remain in business, yet it does not impose a similar fee on other tax payments to the state. Such a surcharge we believe is unfair at best and at worst unconstitutionally defective as violative of the equal protection clause.

We urge the committee to hold this measure as it is unfair, and both procedurally and substantively unconstitutional.

Thank you for the opportunity to present this testimony.

TESTIMONY BEFORE THE
HOUSE COMMITTEE ON FINANCE

Thursday, March 31, 2011
5:00 p.m., Agenda #4

S.B. NO. 752, S.D.2, H.D.1

RELATING TO ECONOMIC DEVELOPMENT.

By Kevin Katsura
Associate General Counsel, Legal Department
Hawaiian Electric Company, Inc.

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

My name is Kevin Katsura providing written testimony in opposition to a portion of S.B. No. 752, S.D.2, H.D.1 on behalf of Hawaiian Electric Company, Inc. and our subsidiary companies, Hawaii Electric Light Company, Inc. and Maui Electric Company, Ltd. (collectively, the Hawaiian Electric Companies).

Hawaiian Electric Companies oppose the language found on page 6 that increases the filing fee a regulated public utility, other than a telecommunications carrier that is the carrier of last resort, must pay for any documents filed with the Public Utilities Commission (PUC) to fund the Department of Business, Economic Development, and Tourism special fund.

The utilities already pay a public utility fee that is deposited into the public utilities commission special fund to fund the PUC and the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs (Consumer Advocate). For fiscal year (FY) 2010, the PUC collected \$20.3 million in public utility fees, more than twice the amount needed to fund the PUC and the Consumer Advocate. Then as required by statute, at the end of FY 2010, the PUC transferred to the general fund a total amount of \$15.8 million, representing its special fund excess balance of \$14.7 million plus central service assessments of \$1.1 million.

Electricity is a necessity of modern living, and an increase in fees imbedded in our cost hurts the lower income consumer the most. Hawaii consumers can ill-afford this additional cost in these tough economic times.

For these reasons, the Hawaiian Electric Companies respectfully request that this measure be amended by deleting the language increasing the PUC filing fee.

Thank you for the opportunity to testify.

House Committee on Finance
Representative Marcus Oshiro, Chair
Representative Marilyn Lee, Vice Chair

Date of Hearing: March 31, 2011
Agenda #4 – 5:00 pm

RE: Senate Bill 752, SD2, HD1 – Relating to Economic Development

Chair Oshiro and members of the Committee, the National Association of Insurance and Financial Advisors (NAIFA) Hawaii is made up of life and health insurance agents throughout Hawaii, who primarily sell life insurance, annuities, long term care and disability income policies.

We **oppose** HB 752, SD2, HD1. This measure in Part III Section 9 will create a new special fund in DBEDT by assessing a \$20.00 surcharge on various fees charged by Department of Commerce and Consumer Affairs (DCCA), Department of Taxation, Department of Labor and Industrial Relations, and the Public Utilities Commission for 4 years. This special fund will help to finance DBEDT's operations.

We will limit our comments to DCCA, specifically Insurance Division. Last session, ACT 59 (HB 1985, SD1, CD1) was enacted that **doubled all statutory fees in Insurance Division for the next four years. The amounts collected from the new “insurance license and service tax” will be deposited into the general fund** not the Compliance Resolution Fund. With HB 782, SD2, HD1, a \$20 surcharge will be added to the recently enacted doubling of fees.

Insurance agents when renewing their licenses will have to pay the regular fee plus the new “insurance license and service tax” and then, the \$20 surcharge for a total of \$220 for a 2-year license.

We respectfully ask that this measure be held.

Mahalo for this opportunity to share our views.

Cynthia Takenaka
Executive Director
Ph: 394-3451

Natalie J. Iwasa, CPA, Inc.
1331 Lunalilo Home Road
Honolulu, HI 96825
808-395-3233

TO: Committee on Finance

DATE: 5 p.m. Wednesday, March 31, 2011

RE: SB752, SD2, HD1 Relating to New Fees for DBEDT - **OPPOSE**

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

This bill would impose new fees on small businesses and nonprofit organizations. I am a sole practitioner with no assistants. I already pay fees for an individual CPA license, individual permit, firm permit and annual registration of my corporation. Last year the IRS came out with a new annual fee as well. In addition, I am known as "Bike Mom" and will be paying fees to register that name. The renewals related to all of these state registrations, licenses and permits would be assessed a \$20 surcharge under this bill.

My revenue is down 30% from last year due. Out of about 35 clients, two (one small business, one charitable organization) are on the brink of bankruptcy. All of these fees add up and are especially hard on small businesses. Given the recent earthquake and crisis in Japan and its expected negative impacts on Hawaii, this is not the time to institute new fees.

I urge you to vote "no" on this bill.