
HOUSE CONCURRENT RESOLUTION

URGING THE DEPARTMENT OF HEALTH TO REFRAIN FROM IMPOSING ANY INCREASE TO THE NON-REFUNDABLE DEPOSIT BEVERAGE CONTAINER FEE UNTIL THE AUDITOR HAS COMPLETED AN UPDATED MANAGEMENT AND FINANCIAL AUDIT OF THE DEPOSIT BEVERAGE CONTAINER PROGRAM.

1 WHEREAS, Act 176, Session Laws of Hawaii 2002, established
2 the deposit beverage container recycling program ("program"),
3 which was intended to increase recycling rates and reduce
4 litter; and

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6 WHEREAS, the program, as currently administered by the
7 Department of Health ("Department"), collects a fee of six cents
8 on each deposit beverage container sold in the State; and

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10 WHEREAS, the six cent fee is passed on to consumers,
11 resulting in increased beverage prices; and

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13 WHEREAS, the six cent fee is comprised of a refundable five
14 cent deposit that consumers may redeem by recycling the
15 containers at redemption centers and a one cent non-refundable
16 deposit beverage container fee to subsidize redemption center
17 operations; and

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19 WHEREAS, all revenues generated by the five cent deposit
20 and the one cent container fee are placed into a deposit
21 beverage container special fund; and

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23 WHEREAS, moneys in the special fund are used to reimburse
24 the five cent refund values to consumers and to pay handling
25 fees to the redemption centers; and

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27 WHEREAS, the special fund was also intended, in part, to
28 fund the administrative, audit, and compliance activities
29 associated with the collection and payments of the deposits and



1 handling fees of the program, conduct recycling education,
2 promote recyclable market activities, support the handling and
3 transportation of the deposit beverage containers to end-
4 markets, hire personnel to implement the program, and fund
5 associated office expenses; and

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7 WHEREAS, Hawaii is one of only two states where redemption
8 funds are managed by the State, and therefore the Legislature
9 mandated that the Auditor periodically audit the program; and

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11 WHEREAS, section 342G-107, Hawaii Revised Statutes,
12 requires the Auditor to conduct a management and financial audit
13 of the program for fiscal years 2004-2005 and 2005-2006, and for
14 each fiscal year thereafter in an even-numbered year, and to
15 submit the audit report, including the amount of unredeemed
16 refund value and recommendations, to the Legislature and the
17 Department no later than twenty days prior to the convening of
18 the next regular session; and

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20 WHEREAS, the November 2005 audit of the program concluded
21 that the Department had failed to establish a financial
22 accounting system to ensure that transactions are properly
23 recorded and reported and that assets are safeguarded; and

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25 WHEREAS, the November 2005 audit further concluded that the
26 program lacked numerous internal controls over cash receipts and
27 disbursements and financial reporting which created
28 opportunities for potential abuse and untimely financial
29 reporting; and

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31 WHEREAS, the Auditor has not submitted audit reports since
32 November 2005, and consequently, the Legislature has not
33 received audits for 2006, 2008, and 2010; and

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35 WHEREAS, despite the Department's efforts to improve the
36 program and the management of the special fund, there has been
37 no subsequent management and financial audit to otherwise refute
38 the findings and recommendations in the November 2005 audit; and

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40 WHEREAS, the Department's December 2010 annual report to
41 the Legislature on solid waste management detailed that the
42 program's solvency is contingent on a low recycling and
43 redemption rate, because the one cent container fee is



1 insufficient to cover the handling fees paid to redemption
2 centers. The report further stated:

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4 "As of June 30, 2010, the [Deposit Beverage Container]
5 special fund had about \$14 million remaining after
6 encumbrances. The Program must rely on the fund's
7 reserves to sustain itself to keep up with the high
8 rates of deposit refunds. This is because the Program
9 pays out more than it collects per container. While
10 the Program collects 6 cents per container (deposit
11 plus container fee), it pays 7 to 9 cents per
12 container (5 redemption plus 2-4 cents handling fee).
13 The Program relies on the percentage of unredeemed
14 deposits to sustain itself. As the percentage of
15 unredeemed deposits shrinks, due to the high number of
16 deposits being refunded, then the Program must utilize
17 the fund's reserves or increase the container fee to
18 sustain itself"; and
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20 WHEREAS, the Department's December 2009 report to the
21 Legislature on the activities of the program stated that, aside
22 from moneys expended to refund the five cent deposit, for the
23 period of October 2002 through June 2009, the Department paid
24 \$63,000,000 in handling fees to redemption centers and
25 \$17,000,000 in administrative expenses, reverse vending machine
26 rebates, infrastructure improvement grants, and county support;
27 and
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29 WHEREAS, the 2010 solid-waste report stated that, aside
30 from moneys expended to refund the five cent deposit, in fiscal
31 year 2010 alone the Department paid \$18,500,000 in handling fees
32 to redemption centers and \$2,500,000 in administrative expenses;
33 and
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35 WHEREAS, the 2009 report and the 2010 solid-waste report
36 collectively indicate that, from October 2002 through the fiscal
37 year 2010, the Department paid more than \$81,000,000 in handling
38 fees to redemption centers and more than \$19,000,000 in
39 administrative expenses; and
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41 WHEREAS, under the program, the Department has collected
42 approximately \$400,000,000 in fees and deposits from Hawaii
43 consumers, yet has operated with little external oversight of
44 the program and special fund; and



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2 WHEREAS, the non-refundable one cent container fee raises
3 beverage prices in Hawaii by at least \$10,000,000 each year; and
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5 WHEREAS, the Department has indicated its intent to
6 increase the non-refundable one cent container fee as early as
7 September 1, 2012, and has claimed that additional funds are
8 required for the program; and
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10 WHEREAS, section 342G-102, Hawaii Revised Statutes,
11 authorizes the Department to increase the non-refundable
12 container fee from one cent to 1.5 cents per container if the
13 redemption rate is greater than seventy per cent; and
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15 WHEREAS, the Department maintains that currently, the
16 redemption rate is greater than seventy per cent; and
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18 WHEREAS, any increase in the non-refundable container fee
19 would further escalate beverage prices in Hawaii by an
20 additional \$5,000,000 to \$10,000,000 each year; and
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22 WHEREAS, this increase in beverage prices would be passed
23 on to consumers; and
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25 WHEREAS, in light of the Auditor's November 2005 findings
26 of an inadequate financial accounting system and the lack of
27 internal controls, and given the significant sums expended from
28 the special fund, the Department's expenditure reports are
29 insufficient to assess whether the special fund has been
30 appropriately managed for its intended purpose; and
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32 WHEREAS, until the Auditor completes a current audit to
33 attest to the management and financial integrity of the program
34 and the special fund, any increase in the non-refundable
35 container fee is an unjustifiable economic burden on consumers;
36 now, therefore,
37

38 BE IT RESOLVED by the House of Representatives of the
39 Twenty-sixth Legislature of the State of Hawaii, Regular Session
40 of 2012, the Senate concurring, that the Department is urged to
41 refrain from imposing any increase to the non-refundable deposit
42 beverage container fee until the Auditor has completed an
43 updated management and financial audit of the deposit beverage
44 container recycling program; and



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BE IT FURTHER RESOLVED that the Auditor is requested to conduct a management and financial audit of the program, pursuant to section 342G-107, Hawaii Revised Statutes, and address among other things:

- (1) The concerns reported in the November 2005 audit as to the Department's lack of accounting and internal controls for the program and special fund;
- (2) The Department's current management of the program and the special fund;
- (3) Whether past expenditures from the special fund were consistent with the purpose of the program;
- (4) The results and continued financial viability of the program; and
- (5) Whether any increase to the non-refundable deposit beverage container fee may be justified for consumers; and

BE IT FURTHER RESOLVED that the Auditor is requested to submit the audit to the Legislature at least twenty days prior to the convening of the Regular Session of 2013; and

BE IT FURTHER RESOLVED that the Auditor is requested to submit biennial audits of the program, in accordance with section 342G-107, Hawaii Revised Statutes, thereafter; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the Auditor and the Director of Health.

OFFERED BY:

Handwritten signatures and names: Pau Choy, Linda..., Ryan..., Kalu..., Alan..., and others.

