
HOUSE CONCURRENT RESOLUTION

URGING THE DEPARTMENT OF HEALTH TO NOT IMPOSE 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
30 handling fees of the program, conduct recycling education,



1 promote recyclable market activities, support the handling and
2 transportation of the deposit beverage containers to end-
3 markets, hire personnel to implement the program, and fund
4 associated office expenses; and
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6 WHEREAS, Hawaii is one of only two states where redemption
7 funds are managed by the State, and therefore the Legislature
8 mandated that the Auditor periodically audit the program; and
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10 WHEREAS, section 342G-107, Hawaii Revised Statutes,
11 requires the Auditor to conduct a management and financial audit
12 of the program for fiscal years 2004-2005 and 2005-2006, and for
13 each fiscal year thereafter in an even-numbered year and to
14 submit the audit report, including the amount of unredeemed
15 refund value and recommendations, to the Legislature and the
16 Department no later than twenty days prior to the convening of
17 the next regular session; and
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19 WHEREAS, the November 2005 audit of the program concluded
20 that the Department had failed to establish a financial
21 accounting system to ensure that transactions are properly
22 recorded and reported and that assets are safeguarded; and
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24 WHEREAS, the November 2005 audit further concluded that the
25 program lacked numerous internal controls over cash receipts and
26 disbursements and financial reporting which created
27 opportunities for potential abuse and untimely financial
28 reporting; and
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30 WHEREAS, the Auditor has not submitted audit reports since
31 November 2005, and consequently, the Legislature has not
32 received audits for 2006, 2008, and 2010; and
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34 WHEREAS, despite the Department's efforts to improve the
35 program and the management of the special fund, there has been
36 no subsequent management and financial audit to otherwise refute
37 the findings and recommendations in the November 2005 audit; and
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39 WHEREAS, the Department's December 2010 annual report to
40 the Legislature on solid waste management detailed that the
41 program's solvency is contingent on a low recycling and
42 redemption rate, because the one cent container fee is
43 insufficient to cover the handling fees paid to redemption
44 centers. The report further stated:



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

33 WHEREAS, the 2009 report and the 2010 solid-waste report
34 collectively indicate that, from October 2002 through the fiscal
35 year 2010, the Department paid more than \$81,000,000 in handling
36 fees to redemption centers and more than \$19,000,000 in
37 administrative expenses; and
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39 WHEREAS, under the program, the Department has collected
40 approximately \$400,000,000 in fees and deposits from Hawaii
41 consumers, yet has operated with little external oversight of
42 the program and special fund; and
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1 WHEREAS, the non-refundable one cent container fee raises
2 beverage prices in Hawaii by at least \$10,000,000 each year; and
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4 WHEREAS, the Department has indicated its intent to
5 increase the non-refundable one cent container fee as early as
6 September 1, 2012, and has claimed that additional funds are
7 required for the program; and
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9 WHEREAS, section 342G-102, Hawaii Revised Statutes,
10 authorizes the Department to increase the non-refundable
11 container fee from one cent to 1.5 cents per container if the
12 redemption rate is greater than seventy per cent; and
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14 WHEREAS, the Department maintains that currently, the
15 redemption rate is greater than seventy per cent; and
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17 WHEREAS, any increase in the non-refundable container fee
18 would further escalate beverage prices in Hawaii by an
19 additional \$5,000,000 to \$10,000,000 each year; and
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21 WHEREAS, this increase in beverage prices would be passed
22 on to consumers; and
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24 WHEREAS, in light of the Auditor's November 2005 findings
25 of an inadequate financial accounting system and the lack of
26 internal controls, and given the significant sums expended from
27 the special fund, the Department's expenditure reports are
28 insufficient to assess whether the special fund has been
29 appropriately managed for its intended purpose; and
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31 WHEREAS, until the Auditor completes a current audit to
32 attest to the management and financial integrity of the program
33 and the special fund, any increase in the non-refundable
34 container fee is an unjustifiable economic burden on consumers;
35 now, therefore,
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37 BE IT RESOLVED by the House of Representatives of the
38 Twenty-sixth Legislature of the State of Hawaii, Regular Session
39 of 2012, the Senate concurring, that the Department is urged to
40 not increase the non-refundable deposit beverage container fee
41 until the Auditor has completed an updated management and
42 financial audit of the deposit beverage container recycling
43 program in accordance with section 342G-107, Hawaii Revised
44 Statutes; and



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

- 6
7 (1) The concerns reported in the November 2005 audit as to
8 the Department's lack of accounting and internal
9 controls for the program and special fund;
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11 (2) The Department's current management of the program and
12 the special fund;
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14 (3) Whether past expenditures from the special fund were
15 consistent with the purpose of the program;
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17 (4) The results and continued financial viability of the
18 program; and
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20 (5) Whether any increase to the non-refundable deposit
21 beverage container fee may be justified for consumers;
22 and
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24 BE IT FURTHER RESOLVED that the Auditor is requested to
25 submit the audit to the Legislature at least twenty days prior
26 to the convening of the Regular Session of 2013; and
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28 BE IT FURTHER RESOLVED that the Auditor is requested to
29 submit biennial audits of the program, in accordance with
30 section 342G-107, Hawaii Revised Statutes, thereafter; and
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32 BE IT FURTHER RESOLVED that certified copies of this
33 Concurrent Resolution be transmitted to the Auditor and the
34 Director of Health.

