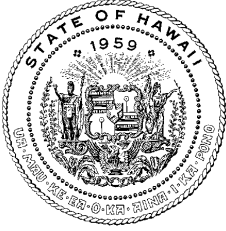


**HB 1758, HD 1
EDT**



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

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
Richard C. Lim
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
Wednesday, March 14, 2012
1:30 P.M.
State Capitol, Conference Room 016
In consideration of

HB1758, HD1
RELATING TO BUSINESS DEVELOPMENT IN HAWAII

Chair Fukunaga, Vice Chair Wakai and Members of the Committee.

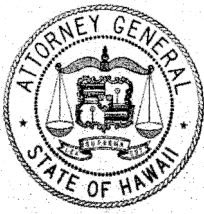
The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of HB1758, HD1 which amends Chapter 201, Hawaii Revised Statutes, to establish a qualified media infrastructure program within DBEDT through issuance of revenue bonds not to exceed \$25 million and creates a special fund to provide loans, grants, or other forms of financial assistance for qualified media infrastructure projects, restricting disbursement of any funds until after July 1, 2015.

The department recognizes the immense growth potential of the film and digital media industries, which would benefit from infrastructure expansion. This measure provides a framework to support development, construction, renovation, or operations of a film, video, television, or media production or post-production facility.

While we have concerns regarding the inclusion of the operations component, the department recognizes that enhancements to the existing HRS 235-17 through extension of the sunset date to 2025, and building capacity in our workforce, together with infrastructure development are three key components to grow this clean, creative industry sector for our State.

Should the measure pass, DBEDT would require additional staffing to support the program.

Thank you for the opportunity to testify on this measure.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SIXTH LEGISLATURE, 2012**

ON THE FOLLOWING MEASURE:

H.B. NO. 1758, H.D. 1, RELATING TO BUSINESS DEVELOPMENT IN HAWAII.

BEFORE THE:

SENATE COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY

DATE: Wednesday, March 14, 2012 **TIME:** 1:30 p.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): David M. Louie, Attorney General, or
Randall S. Nishiyama, Deputy Attorney General

Chair Fukunaga and Members of the Committee:

The Department of the Attorney General has several legal concerns regarding this bill.

This bill authorizes the Director of Business, Economic Development, and Tourism ("Director") to issue revenue bonds to assist individuals with qualified media infrastructure projects. In addition, this bill establishes the Qualified Media Infrastructure Projects Special Fund for the disbursement of the bond proceeds and other moneys.

First, the bill's revenue bonds do not appear to satisfy the Hawaii State Constitution's definition of "revenue bonds." Article VII, section 12, of the Hawaii State Constitution defines revenue bonds as follows:

7. The term "revenue bonds" means all bonds payable from the revenues, or user taxes, or any combination of both, of a public undertaking, improvement, system or loan program and any loan made thereunder and secured as may be provided by law, including a loan program to provide loans to a state property insurance program providing hurricane insurance coverage to the general public.

We note that there are no provisions in this bill regarding the source of repayment of the revenue bonds (e.g., from loan program revenues or regarding the security for the bonds).

Second, even if this bill authorizes "revenue bonds," and notwithstanding the bill's recital that such revenue bonds do not count against the State's debt limit (page 2, lines 5-8), this bill does not meet the "revenue bonds" requirements set out by the fourth paragraph of Hawaii State Constitution, article VII, section 13, regarding the exclusion of debt from the State's debt ceiling. Article VII, section 13, of the Hawaii State Constitution provides in pertinent part:

In determining the power of the State to issue general obligation bonds or the funded debt of any political subdivision under section 12, the following shall be excluded:

* * *

2. Revenue bonds, if the issuer thereof is obligated by law to impose rates, rentals and charges for the use and services of the public undertaking, improvement or system or the benefits of a loan program or a loan thereunder or to impose a user tax, or to impose a combination of rates, rentals and charges and user tax, as the case may be, sufficient to pay the cost of operation, maintenance and repair, if any, of the public undertaking, improvement or system or the cost of maintaining a loan program or a loan thereunder and the required payments of the principal of and interest on all revenue bonds issued for the public undertaking, improvement or system or loan program, and if the issuer is obligated to deposit such revenues or tax or a combination of both into a special fund and to apply the same to such payments in the amount necessary therefor.

Under this bill, the Director is not obligated to impose any rates, rentals, and charges for the benefits of the loan program, nor is the Director obligated to deposit any loan repayments into the special fund for application to the bond's debt service. Accordingly, revenue bonds issued under this bill would count against the State's debt limit.

Third, the matching funds provisions of subsection (g), of the new section being added by section 2 of the bill (page 3, lines 14-22), does not direct the deposit of the matching funds into the special fund or anywhere else. It is not clear where such moneys will go.

Fourth, under this bill, only "individuals" (page 2, lines 1-4) can qualify for assistance. This term is narrow in scope and it is not clear if this is the intention of the drafters of this bill to impose such a limitation.

Thank you for the opportunity to testify on this bill.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON ECONOMIC DEVELOPMENT
AND TECHNOLOGY
ON
HOUSE BILL NO. 1758, H.D. 1

March 14, 2012

RELATING TO BUSINESS DEVELOPMENT IN HAWAII

House Bill No. 1758, H.D. 1, authorizes the Director of the Department of Business, Economic Development and Tourism to issue revenue bonds for qualified media infrastructure projects and creates the Qualified Media Infrastructure Projects Special Fund for disbursement of funds.

While the Department of Budget and Finance supports the intent to encourage the development of the film industry in Hawaii, as a matter of general policy, the department does not support the creation of any special fund which does not meet the requirements of Section 37-52.3 of the Hawaii Revised Statutes. Special or revolving funds should: 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 House Bill No. 1758, H.D. 1, it is difficult to determine whether the fund will be self-sustaining because it is unclear if the qualified media infrastructure projects would be required to pay off the debt service of the revenue bond proceeds they receive.

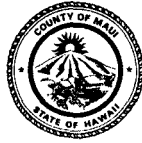
However, it is clear that a revenue stream consisting only of legislative appropriations, donations and interest would not be sufficient for the fund to be self-sustaining. This component of the program structure is important because the issuance of revenue bonds is governed by, and incorporates, many requirements on the revenue stream for the bonds.

I encourage the Legislature to scrutinize the fiscal and operational plan for this program to ensure that it does conform to the requirements of Section 37-52.3, Hawaii Revised Statutes.

Council Chair
Danny A. Mateo

Vice-Chair
Joseph Pontanilla

Council Members
Gladys C. Baisa
Robert Carroll
Elle Cochran
Donald G. Couch, Jr.
G. Riki Hokama
Michael P. Victorino
Mike White



Director of Council Services
Ken Fukuoka

COUNTY COUNCIL
COUNTY OF MAUI
200 S. HIGH STREET
WAILUKU, MAUI, HAWAII 96793
www.mauicounty.gov/council

March 12, 2012

The Honorable Carol Fukunaga, Chair
Senate Committee on Economic Development and Technology
Hawaii State Capitol, Conference Room 016
Honolulu, Hawaii 96813

Dear Chair Fukunaga:

Re: TESTIMONY IN SUPPORT of House Bill 1758, HD 1 relating to Business Development in Hawaii (Public Hearing: March 14, 2012 at 1:30 pm in Conference Room 016)

As the Lana`i member on the Maui County Council, I would like to offer testimony in support of HB 1758 HD 1. This measure authorizes the Director of Business, Economic Development, and Tourism to issue revenue bonds for qualified media infrastructure projects; creates a special fund for disbursement of funds; requires matching funds and post-audits...

In order to attract more motion picture, film and digital media production, Hawaii must help to fund infrastructure projects to be more competitive with other locales. In my view, the proposed measure has potential benefits for Maui County in its efforts to attract more motion picture and film production. .

Thank you for the opportunity to offer this testimony in support of HB 1758 HD 1.

Sincerely,

A handwritten signature in black ink, appearing to read "Riki Hokama".

Riki Hokama, Councilmember- Lana`i

cc: Council Chair Danny Mateo