HB 2338, HD 2
Proposed SD 1

EDT/WAM

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEES ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
AND WAYS AND MEANS
ON
HOUSE BILL NO. 2338, H.D. 2, PROPOSED S.D. 1

April 3, 2012

RELATING TO THE CREATIVE MEDIA INDUSTRY.

House Bill No. 2338, H.D. 2, Proposed S.D. 1, assigns to the Hawaii Tourism Authority the responsibilities for film, television, digital, and new media development; repeals the film industry activities within the Department of Business, Economic Development, and Tourism; and requires the Hawaii Tourism Authority to restructure the debt service for the state obligations related to the Hawaii Convention Center and fund the implementation of the film, television, digital, and new media development activities for fiscal year 2012-2013 and fiscal year 2013-2014 from the savings from any debt restructuring.

The Department offers comments on Section 12 of the bill and recommends additional language regarding the restructuring of the general obligation reimbursable debt service payments. The Department issued approximately $347.5 million of general obligation bonds in 1992 through 1997 to fund construction cost related to the Hawaii Convention Center. The Convention Center Authority (CCA) was responsible for the repayment of the actual debt service on the general obligation reimbursable (GOR) bonds issued for this project and the funding source for the GOR debt service was a portion of the Transient Accommodations Tax (TAT) dedicated to the CCA. In 1999, the CCA projected that they would incur future operating losses based upon the actual annual GOR debt service payments and the projected CCA and TAT revenues. The CCA requested that the actual GOR debt service be restructured to reamortize the outstanding balance of $337.8 million over a 25-year term (original GOR bonds had a 20-year term) to reduce the annual GOR debt service payments. Pursuant to Act 98, SLH 1999, the then Director of Finance, with the approval of the Governor, reamortized the $337.8 million of outstanding GOR debt with a 25-year term at 6.00% to provide for annual GOR debt service payments of approximately $26.4 million per year. At this point, the reamortized GOR debt service payments had no correlation to the actual GOR bonds issued to fund the project.

The statutory authority for the CCA expired on June 30, 2000 and the responsibility for the administration of the Hawaii Convention Center and the related GOR debt service was transferred to the Hawaii Tourism Authority effective July 1, 2000 (fiscal year 2001). However, the portion of the TAT revenues previously dedicated to the CCA for the payment of the GOR debt service was not conveyed or transferred to the HTA until fiscal year 2003. Thus, in fiscal years 2001 and 2002, the HTA did not pay the annual GOR debt service payments due to the Department. The HTA resumed payment of the GOR debt service payments in fiscal year 2003. The HTA and Department discussed various options to address the nonpayment in fiscal years 2001 and 2002, however, were not able to come to an agreement on the disposition of the payments due for fiscal years 2001 and 2002. In 2011, the Department of the Attorney General issued legal advice stating that the HTA was responsible for the fiscal years 2001 and 2002 GOR payment and in September 2011, the HTA and Department, with the approval of the Governor, entered into an agreement to extend the 1999 GOR debt service payment by an additional 2 years to reflect all GOR payments. The September 2011 agreement did not result in any increase in principal or interest payments when compared with the prior agreement executed in 1999.

As the HTA and Department currently have an agreement with respect to the GOR repayment schedule, the Department respectfully recommends that clarifying language be inserted into Section 12 to authorize the HTA and Department to enter into an agreement to further restructure the GOR debt service payment schedule.

Thank you for the opportunity to provide testimony on this measure.

NEIL ABERCROMBIE
GOVERNOR

RICHARD C. LIM
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

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Statement of
RICHARD C. LIM
Director
Department of Business, Economic Development, and Tourism
before the
SENATE COMMITTEE ON ECONOMIC DEVELOPMENT & TECHNOLOGY AND SENATE COMMITTEE ON WAYS & MEANS
Tuesday, April 3, 2012
9:30 a.m.
State Capitol, Conference Room 211
in consideration of
HB2338, HD2, Proposed SD1
RELATING TO THE CREATIVE MEDIA INDUSTRY

Chairs Fukunaga and Ige, Members of the Committees.

The Department of Business, Economic Development, and Tourism (DBEDT) **supports the intent** of House Bill 2338, HD2, proposed SD1 which would transfer the Hawaii Film Office from the Creative Industries Division, a division in DBEDT, to the Hawaii Tourism Authority (HTA), an attached agency.

Additional funding and staffing for the Hawaii Film Office through the HTA has the potential to increase the impact that film and television have on Hawaii’s tourism industry and further develop Hawaii as a world-class location/destination for producers and visitors alike.

Since the 2009 reduction-in-force, the Hawaii Film Office has relied on help from the Creative Industries Division staff to expedite film permits and administer Act 88 tax credit certifications. If the Hawaii Film Office staff of four is transferred to HTA, there will be a critical need for additional staff to manage the workload.

This measure calls for establishment of a special fund to administer a low-interest loan and grants program for filmmakers. This would be particularly difficult for the film office to manage given our current staffing shortages.

There are other measures under consideration in both Houses that would amend HRS 235-17. Any changes should be consistent with one another.

Thank you for the opportunity to testify on this measure.

Testimony for HB 2338

I support the adoption of HB 2338. I think it is an important bill to help diversify Hawaii's economy. In addition to the economic impact of the creative industries cited in the bill it has synergies with other broad State goals. It is a clean, high value industry that will not pollute our environment. Hawaii's environment is a treasure and this kind of industry will generate jobs while helping to keep our environment one that is the envy of the world.

The creative media industry overlaps with tourism; Hawaii's main private economic driver. It helps that industry in several ways. First, the industry often uses the backdrop of Hawaii as the context of its stories and products. This provides valuable PR for Hawaii that increases its value as a tourist destination. Secondly it will draw more projects and businesses to Hawaii that adds to the richness of the tourism experience by adding modern day events and locations to the litany of famous places associated with the movie and media industries. Creative industries adds to the richness and diversity of life in Hawaii by supporting an industry that adds to the memories of residents and visitors

It is important to note that the creative media industry is already successful in Hawaii. However, this bill will help raise the industry to a new level. It will add to the critical mass of necessary support facilities to expand the industry in Hawaii. In a competitive world every industry needs to continue to evolve and re-invent itself. This bill will help the creative media industry stay competitive with other locations which would love to land this kind of clean high value industry.

The State supports other desired industries with long term leases that support that sector of the economy. Agriculture is supported by subsidized rents in State Agricultural Parks. Tourism is supported by public parks, concessions in public venues and the Convention Center. Various businesses and industries are located on public lands around harbors and airports that support those businesses. It is good public policy to support the businesses we target to help diversify the economy of Hawaii.

The location of such a facility is important as it can act as an economic incubator or stimulator for the region. I am confident DLNR will approve a site where impacts are minimal and the facility can be successful.

Finally, It will provide a revenue stream for the State of Hawaii Department of Land and Natural Resources to perform its broader mandate.

I support the passage of HB 2338, H.D. 2.

Sincerely,
George Atta, AICP, CEI
232-1983

NEIL ABERCROMBIE
GOVERNOR

BARBARA A. KRIEG
INTERIM DIRECTOR

LEILA A. KAGAWA
DEPUTY DIRECTOR

STATE OF HAWAII
DEPARTMENT OF HUMAN RESOURCES DEVELOPMENT
235 S. BERETANIA STREET
HONOLULU, HAWAII 96813-2437

March 30, 2012

TESTIMONY TO THE
SENATE COMMITTEES
ON
ECONOMIC DEVELOPMENT AND TECHNOLOGY
AND
WAYS AND MEANS

For Hearing on Tuesday, April 3, 2012
9:30 a.m., Conference Room 211

BY

BARBARA A. KRIEG
INTERIM DIRECTOR

House Bill No. 2338, H.D. 2, Proposed S.D. 1
Relating to the Creative Media Industry

WRITTEN TESTIMONY ONLY

TO CHAIRPERSONS FUKUNAGA AND IGE AND MEMBERS OF THE COMMITTEES:

The purpose of H.B. No. 2338, H.D. 2, Proposed S.D. 1 is to assign to the Hawaii Tourism Authority the responsibilities for film, television, digital, and new media development; repeal the film industry activities within the Department of Business, Economic Development and Tourism; and make several conforming amendments.

The Department of Human Resources Development has **comments** on the language in Section 9. Inasmuch as subsection 201B-3(A)(7), Hawaii Revised Statutes, already permits the Hawaii Tourism Authority to employ persons with or without regard to chapters 76 and 78, it is not necessary to include such language in this measure; therefore, we recommend deleting the relevant language. In addition, rights and benefits of the employees to be transferred should be protected. Based on the foregoing, we recommend that the language in Section 9 be replaced with the following language:

> "All rights, powers, functions, and duties related to Hawaii television and film development are transferred to the Hawaii tourism authority. All employees who occupy civil service positions and whose functions are transferred to the Hawaii tourism authority by this Act shall retain their civil service status (permanent or temporary). Employees shall be transferred without loss of salary, seniority, retention points, prior service credit, any vacation and sick leave credits previously earned, and other rights, benefits, and privileges, in accordance with state personnel laws and this Act, provided that the employees possess the minimum qualifications and public employment requirements for the class or position to which transferred or appointed, as applicable, provided further that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.
>
> Any employee who, prior to this Act, is exempt from civil service and is transferred as a consequence of this Act, may continue to retain the employee's exempt status, but shall not be appointed to a civil service position because of this Act. An exempt employee who is transferred by this Act shall not suffer any loss of prior service credit, any vacation and sick leave credits previously earned, or other employee benefits or privileges as a consequence of this Act, provided that the employees possess legal and public employment requirements for the position to which transferred or appointed, as applicable; provided that subsequent changes in status may be made pursuant to applicable employment and compensation

laws. The chief executive officer of the Hawaii tourism authority may prescribe the duties and qualifications of such employees and fix their salaries without regard to chapter 76, Hawaii Revised Statutes."

Thank you for the opportunity to offer comments on this measure.

HAWAII FILM & ENTERTAINMENT BOARD

The Senate
The Twenty-sixth Legislature
Regular Session of 2012

To: Committee on Economic and Technology
Senator Carol Fukunaga, Chair
Senator Glenn Wakai, Vice-Chair
Members of the Committee

Committee on Ways and Means
Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice-Chair
Members of the Committee

Re: Relating to the Creative Media Industry
House Bill 2338, HD2, Proposed SD1

The Hawaii Film and Entertainment Board (HFEB), whose members include the film industry labor unions, associations and film commissions, **strongly oppose** the transfer of the State Film Office to the Hawaii Tourism Authority (HTA) as proposed in HB 2338, HD2, Proposed SD1. We believe this action would be a misstep and detrimental to an industry that is quickly growing in size, strength and popularity.

We are a creative industry and should not be viewed as part of tourism. Our focus is entirely different -- we tell stories, inform, teach, educate and inspire. Our primary objective is in the development of the creative sector, which has generated over $1 billion dollars and continues to be an economic driver.

The achievements over the last two years are a result of the collaborative efforts between the industry, the film office, city and state agencies, and the Creative Industries Division (CID) of the Department of Business and Economic Development and Tourism (DBEDT).

To nurture continued growth, the Creative Industries Division must have immediate access to the resources and interaction of the day-to-day activities within DBEDT. Infrastructure and workforce development along with daily interaction with state agencies is vital to the operation and growth of the sector. The film office should not be removed from where it is most effective.

c/o SAG-AFTRA • 949 Kapiolani Blvd., Suite 105 • Honolulu, HI 96814 • PH: (808) 596-0388 • FAX: (800) 305-8146

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Senator Michelle N. Kidani, Vice-Chair
Members of the Committee

Re: Relating to the Creative Media Industry
House Bill 2338, HD2, Proposed SD1

We appreciated the wisdom of the legislature for restoring some of the funding and positions to the State film office however, it was not enough. Rather than move the film office to HTA, what is needed is full funding and staffing of the film office under the Creative Industries Division in DBEDT.

We thank you for the opportunity to provide testimony on HB 2338, HD2, Proposed SD1.

c/o SAG-AFTRA • 949 Kapiolani Blvd., Suite 105 • Honolulu, HI 96814 • PH: (808) 596-0388 • FAX: (800) 305-8146

SAG-AFTRA ONE UNION

THE SENATE
TWENTY-SIXTH LEGISLATURE
REGULAR SESSION OF 2012

COMMITTEE ON ECONOMIC DEVELOPMENT AND TECHNOLOGY
Senator Carol Fukunaga, Chair
Senator Glenn Wakai, Vice-Chair
Members of the Committee

COMMITTEE ON WAYS AND MEANS
Senator David Y. Ige, Chair
Senator Michelle N. Kidani, Vice-Chair
Members of the Committee

TESTIMONY ON RELATING TO THE CREATIVE MEDIA INDUSTRY
House Bill 2338, HD2, Proposed SD1

*SAG-AFTRA (formerly the Screen Actors Guild), the International Alliance of Theatrical Stage Employees (IATSE) Mixed Local 665, the American Federation of Musicians (AFM) Local 677 and the Hawaii Teamsters Local 996, collectively represents more than 2,500 union members who work in the film, television, digital and new media industry.

We ***strongly*** oppose HB 2338, HD2, Proposed SD1 that would transfer the State film office out of the Department of Business and Economic Development and Tourism (DBEDT) to the Hawaii Tourism Authority (HTA).

The film industry is a stand-alone creative industry. While it may compliment tourism, it is **NOT** tourism and does not belong in HTA. These are two entirely different industries, fundamentally different in its components and objectives.

Thank you for giving us this opportunity to submit testimony on House Bill 2338, HD2, Proposed SD1.

Glenn Cannon	Henry Fordham	Brien Matson	Jeanne Ishikawa
SAG-AFTRA	IATSE, 665	AFM, 677	Teamsters, 996
Co-President	Business Agent	President	Business Agent
596-0388	596-0227	596-2123	847-6633

*On Friday, March 30, 2012, the Screen Actors Guild and the American Federation of Television and Radio Artists merged. The union's new name is SAG-AFTRA.

c/o 949 Kapiolani Blvd., Suite 105 ◆ Honolulu, HI 96814

fukunaga2 - Ashley-Jane

From: mailinglist@capitol.hawaii.gov
Sent: Monday, April 02, 2012 7:31 AM
To: EDTTestimony
Cc: rgalindez@islandfilmgroup.com
Subject: Testimony for HB2338 on 4/3/2012 9:30:00 AM

Testimony for EDT/WAM 4/3/2012 9:30:00 AM HB2338

Conference room: 211
Testifier position: Support
Testifier will be present: No
Submitted by: Ricardo Galindez
Organization:
E-mail: rgalindez@islandfilmgroup.com
Submitted on: 4/2/2012

Comments:

126 Queen Street, Suite 304 TAX FOUNDATION OF HAWAII Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, GENERAL EXCISE, USE, Exempt construction of a Hawaii film facility

BILL NUMBER: HB 2338, Proposed SD-1

INTRODUCED BY: Senate Committees on Economic Development and Ways and Means

BRIEF SUMMARY: Adds a new section to HRS chapter 237 to provide that amounts received from the construction or operation of a Hawaii film facility under a financing agreement pursuant to HRS chapter 37D shall be exempt from the general excise tax.

Amends HRS section 235-17 to replace references to the department of business, economic development and tourism (DBEDT) with Hawaii Tourism Authority.

Adds a new paragraph to HRS section 238-1 to provide that the use tax shall not be applicable to the use of material, parts, or tools imported or purchased by a person licensed under HRS chapter 237 that are used for a Hawaii film facility or the construction of a Hawaii film facility.

Amends HRS chapter 201B to establish a new part titled "Film, television, digital, and new media development" and provides that the Hawaii Tourism Authority shall be responsible for such development while repealing the film industry responsibilities of DBEDT. Also establishes a film, televison, digital, and new media development special fund to be used by the Authority to assist in and provide incentives for the production of eligible projects in the state. A portion of the moneys in the fund shall be used for the staffing and operation of the Hawaii film office and the operation and maintenance of the Hawaii film studio.

Repeals HRS chapter 201, part IX, which established the Hawaii television and film development board and the Hawaii television and film development special fund and transfers all rights, powers, functions, and duties related to Hawaii television and film development to the Hawaii Tourism Authority.

Requires the Hawaii Tourism Authority to restructure the debt service of the convention center and enter into an agreement with the department of budget and finance to restructure the debt. Appropriates out of the convention center enterprise special fund $_____ from any savings from the debt restructuring in fiscal 2013 and fiscal 2014 which is to be deposited into the film, television, digital and new media development special fund established by this measure.

Appropriates $______ out of the film, television, digital, and new media development special fund for fiscal 2013 and fiscal 2014 to the Hawaii Tourism Authority for the implementation of the film, television, digital, and new media development activities.

These appropriations shall take effect on July 1, 2012.

The amendments made by this act shall not be repealed when 235-17 is reenacted on January 1, 2016, by Act 88, SLH 2006.

EFFECTIVE DATE: July 1, 2050

STAFF COMMENTS: The proposed measure would transfer the responsibilities for film, television, digital and new media development from DBEDT to the Hawaii Tourism Authority. The measure would also require the Hawaii Tourism Authority to restructure the debt service on the convention center and use any savings from the restructuring for implementation of the film, television, digital, and new media development activities for the 2013 and 2014 fiscal years. It is questionable whether there will be sufficient "savings" from the restructuring of the debt to fund the "lofty" goals of the programs to promote the movie and televison industries in the state. According to the Hawaii film office website, the narrative on the film development board states that the board is currently inactive due to lack of funding. Therefore, a direct appropriation to this program area would ensure that there will be sufficient funds to accomplish the goals of this program.

As noted above, this measure would transfer the duties of the film and television industry to the Hawaii Tourism Authority. It should be noted that the Hawaii Tourism Authority is responsible for the promotion of the state's largest industry, tourism, and it is questionable whether the Authority would also have the expertise and knowledge to promote Hawaii as a place to make media productions.

The measure also directs the Hawaii Tourism Authority to develop, construct, operate, own, and manage a Hawaii film facility and proposes that the construction of such facility be exempt from the general excise tax and the related materials, parts or tools imported into the state be exempt from use taxes. The proposed measure would also exempt from the general excise tax, the operations of the Hawaii film facility. If the Hawaii film facility would be a state-owned, it is questionable why such an exemption is necessary. Unless the intent is to contract out the operation of the facility to a private provider of that service, the state is already exempt from being licensed under the general excise tax.

That said, the proposal to exempt the construction and materials from the general excise and use tax appears to reduce the cost of constructing the facility to the state. It confers a special privilege on the contractor who builds that particular state facility. Note well, that with the exception of affordable income housing constructed for low-income families, no other construction of state-owned facilities is exempt from the general excise and use taxes. If this exception is adopted, will it set a precedent for other "special" state facilities in the future? The long-term effect would be an erosion of the general excise and use tax base. Given that this facility is not being built for people who cannot afford the rental or use of the facility, the exemption for the construction activity cannot be justified.

Digested 3/30/12