

WRITTEN ONLY

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON CULTURE AND THE ARTS
ON
HOUSE BILL NO. 2650

February 4, 2012

RELATING TO THE FOUNDATION ON CULTURE AND THE ARTS

House Bill No. 2650 establishes a Foundation on Culture and the Arts Donation Special Fund, and provides an option on tax returns and motor vehicle registration applications to make a donation to this fund.

While the Department of Budget and Finance does not take any position on the policy of providing an option on tax returns and motor vehicle registration applications to make a donation to the Foundation on Culture and the Arts Donation Special Fund, as a matter of general policy, the department does not support the creation of special funds which do not meet the requirements of Section 37-52.3, 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. 2650, it is difficult to determine whether the fund will be self-sustaining.

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SUBJECT: INCOME, Tax checkoff for state foundation on culture and the arts

BILL NUMBER: HB 2650

INTRODUCED BY: Wooley, M. Lee and 1 Democrat

BRIEF SUMMARY: Amends HRS section 235-102.5 to allow individuals with a tax refund of \$___ or more to designate \$___ of that refund to be deposited into the foundation on culture and the arts donation special fund. Joint taxpayers with a tax refund of \$___ or more may each designate \$___ of that refund to be paid to the state foundation on culture and the arts.

Requires the director of taxation to revise the individual state income tax form to allow the designation of contributions. If no designation is made on the original tax return when filed, a designation may be made by the individual on an amended return filed within 20 months and 10 days after the due date of the original return for such taxable year. Once a designation is made, it cannot be revoked.

Adds a new section to HRS chapter 9 to establish the foundation on culture and arts donation special fund which shall be used by the state foundation on culture and the arts exclusively for public education programs and activities on culture and the arts and capital improvement program projects approved by the legislature. Moneys from the income tax checkoff under HRS section 235-102.5 and the voluntary designation on motor vehicle registration applications shall be deposited into the fund.

Adds a new section to HRS chapter 286 (Highway Safety) to allow that a donation of \$___ may be made to the foundation on culture and arts donation special fund at the time a vehicle is registered.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: This measure adds the foundation on culture and arts special fund to the growing list of programs for which taxpayers due an income tax refund may designate all or a portion of that refund. This measure would also allow taxpayers to make a voluntary donation to the fund whenever a motor vehicle is registered in the state.

A survey by the Federation of Tax Administrators found that the states that utilize checkoff programs have been experiencing a decline in the amount of moneys designated through the checkoff mechanism. The survey also found that due to the administrative costs associated with the checkoff programs, states that currently have the checkoffs are looking to adopt expiration clauses and other means to remove the less productive checkoffs. Lawmakers seem to view such checkoffs as absolution of their responsibility to deal with such problems by turning the response directly over to the taxpayer. However, in the long run, the cost of administering the checkoff merely siphons resources that should otherwise be used for providing needed public services.

If lawmakers believe that earmarking funds through a checkoff system is appropriate, then they might consider placing all programs on the state income tax form for designation and consider repealing the legislative body as there will be no reason for the legislature to exist because decisions will have been made by the income taxpayer.

If lawmakers believe certain programs are of great importance, then they can prioritize those programs through the appropriations process. With the Hawaii tax burden already so heavy, why should taxpayers turn any more of their hard earned dollars over to government? What lawmakers also do not recognize is that by creating these checkoffs, they add to the cost of administering the law, a cost that steals funds from other programs like those enumerated for a checkoff designation.

Finally, this measure would establish another special fund into which the moneys from the income tax checkoff and the motor vehicle registration donations are to be deposited. 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. Special funds have been used to "hide" moneys out of view of the public only to be raided when sufficient amounts of money have accumulated. Therefore, the establishment of yet another special fund cannot be justified.

It is curious to note and perhaps unusual that this proposed legislation would add the designation of a donation to the foundation on culture and the arts to the chapter on Highway Safety. Perhaps the author of the measure meant to allow the designation of a donation to be made by taxpayers register their vehicles. However, that is not quite clear in the measure. As the State Auditor noted, a valid special fund must demonstrate a clear link between those who are asked to contribute to a special fund and the benefits that are afforded as a result of the special fund. What connection there is between registering a motor vehicle and culture and the arts is beyond comprehension.

Digested. 2/3/12