

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
SENATE BILL NO. 2948

February 8, 2012

RELATING TO FINANCING AGREEMENTS.

Senate Bill No. 2948 proposes to add new language to Chapter 37D, Hawaii Revised Statutes (HRS), which specifies that the issuance of certificates of participation (COPS) does not require legislative approval.

The Department has a concern on this bill. Currently, legislative approval is not required for the actual issuance of the COPS. However, the debt service for COPS issued pursuant to Chapter 37D, HRS, must be subject to annual appropriation by the Legislature to allow the COPS not to be considered a debt of the State. The proposed new language may be read to eliminate the legislative power of non-appropriation, in which case the issuance of COPS would be considered debt under the Hawaii Constitution, and would be subject to the requirements under Article VII, Section 12 of the Hawaii Constitution which determines the debt limit of the State.

The Department worked with the Department of the Attorney General and the State's bond counsel and suggests the following clarification of the proposed amending language: "Subject to the limitations on financing agreements established by subsection (b)(1), the issuance, sale and delivery of certificates of participation shall not require legislative approval."

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