

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
HOUSE BILL NO. 115, H.D. 2

February 21, 2013

RELATING TO HIGHER EDUCATION

House Bill No. 115, H.D. 2, establishes the Major Repairs and Replacement Special Fund (MRRSF), into which shall be deposited, beginning July 1, 2017:

1) moneys collected from the major repairs and replacement fee (the fee consists of 5% of all gross revenues received by the University of Hawaii (UH) except as provided by law and excluding amounts from special funds from which repair and maintenance costs are already funded); 2) appropriations by the Legislature; and 3) gifts, donations and grants from public agencies and private persons. The MRRSF is to be used solely to fund repair and maintenance projects on UH's backlog list that have been approved for funding by the proposed Campus Planning Facility Board and that have an estimated useful life of no less than two years.

Additionally, the bill proposes to transfer 10% of the balances of all UH special funds for FY 2014-15 and for FY 2015-16 to the MRRSF unless prohibited by law and excluding amounts from special funds from which repair and maintenance costs are already funded. The bill also appropriates \$38 million in general obligation (G.O.) bond funds in FY 2013-14 and in FY 2014-15 for deposit into the MRRSF. The bill appropriates \$100 million out of the MRRSF for FY 2013-14 and for FY 2014-15 to fund UH repair and maintenance projects.

The Department of Budget and Finance recognizes the bill's intent to fund UH's backlog of repair and maintenance projects and defers to UH regarding the bill's

overall fiscal implications on their programs and budgets. However, as a matter of general policy, we do not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. 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. 115, H.D. 2, it is unclear whether there is a clear-cut nexus between the benefits sought and the source of funding and whether the fund will be self-sustaining. We encourage the Legislature to scrutinize the fiscal and operational plan for this program to ensure that it conforms to requirements of Section 37-52.3, HRS.

Additionally, we recommend that a financial and statutory analysis be done of UH special funds before implementation of this bill to:

- a) ensure that the affected special funds have sufficient revenues to carry out their statutory purposes after deduction of the 5% fee and the 10% transfers;
- b) identify special funds that have either State or federal statutory prohibitions against such a fee or transfers; and
- c) identify special funds from which repair and maintenance costs are already funded.

One of our concerns with H.D. 1 was that the proposed fee and transfers would not adversely affect any UH special fund's ability to cover revenue bond debt service costs and revenue bond reserve requirements. Not being able to pay revenue bond debt service or maintain reserve requirements will have severe adverse financial consequences for the UH and possibly the State.

Finally, we have a technical comment on this bill. Federal tax law requires, among other things, that tax-exempt G.O. bond proceeds be used to finance projects that serve public purposes and do not benefit private entities. As the UH has

numerous public/private partnerships, the UH will need to ensure that tax-exempt G.O. bond proceeds will not be used for the benefit of private entities. The State would need to issue taxable G.O. bonds at a higher cost should the UH provide assistance in the form of maintenance and repairs financing to private entities. The annual debt service for the \$76 million G.O. bond appropriation is approximately \$6,360,000.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

WRITTEN ONLY

Testimony Presented Before the
House Committee on Finance
February 21, 2013 at 4:00 PM

by
Howard Todo
Vice President for Budget and Finance
University of Hawai'i

HB 115 HD2 – RELATING TO HIGHER EDUCATION

Chair Luke, Vice Chairs Nishimoto and Johanson, and Members of the House Committee on Finance:

Thank you for the opportunity to testify in support of the intent of this measure with concerns. We are grateful for your consideration of this measure to address the University's \$460 million backlog of deferred repair and maintenance projects. As you know, our needs are sizeable and a detailed priority list of renovation, capital renewal, and backlog of maintenance projects has been provided to you in our Fiscal Biennium 2013-15 Budget Request.

HB 115 HD2 proposes establishing the Campus Planning Facility Board and the Major Repairs and Replacement Special Fund to address University repairs and maintenance. HB 115 HD2 also deposits 5% of all moneys received by the University beginning July 1, 2017, and transfers 10% of special fund balances for fiscal years 2014-15, and 2015-16 into this special fund. The bill also authorizes the issuance of and appropriates \$38 million in general obligation bonds and authorizes a special fund appropriation ceiling of \$100 million in fiscal years 2013-14 and 2014-15.

The University acknowledges the importance of a campus planning facility board that evaluates, identifies, prioritizes, and allocate moneys for repair and maintenance projects of the University. In fact, after the closing of the annual legislative session, the University convenes such a group consisting of the three vice chancellors for administration of the four-year universities, the associate vice president for the community college system, their respective directors of facilities management, and the staff of the Office of Capital Improvements with that overall objective in mind.

The University supports in concept the establishment of a major repairs and replacement special fund to fund repair and maintenance projects in the University's backlog. However, the University has grave concerns on proposed subsection 304A-B(a)(1) regarding the requirement of 5% of all moneys received by the University of

Hawai'i be deposited in this special fund beginning July 1, 2017. Clear, careful definition of funds that the Committee intends for the 5% to be applied to is necessary in order to avoid legal issues and uncertainties. The University's operating budget is approximately \$1.5 billion and consists of general funds, tuition and student fees, extramural contracts and grants, gifts and donations, auxiliary enterprise revenues, operations of the projects in the revenues undertakings special fund (bond system), revenue and general obligation bond proceeds, research and training revolving funds, as well as other special and revolving funds which have been established by statute for specific purposes. The measure uses the wording "except as provided by law". Since each special fund of the University has been statutorily established with a stated purpose, it is not clear whether and in what cases this bill might supersede the establishing legislation for specific special funds. Without clear definition, it is not possible to determine how to apply this legislation or how much the earmarked funds would amount to. Furthermore, the amount of the requirement, depending upon its application and amount, could constitute a significant restriction on the flexibility of the University to carry out its operations and pursue its educational mission.

The University has additional concerns regarding proposed subsection 304A-B(b) which restricts the fund to be used solely to fund repair and maintenance projects on the University's backlog list. The University requires the additional flexibility to use such funds for minor and major renovation and renewal projects where deemed appropriate.

The University also has concerns on Part III Section 3(1) and (2) of the bill which requires the director of finance to deduct 10% of the University's special fund balances for fiscal year 2014-15 and again for fiscal year 2015-16. These special fund balances are necessary working capital for the specific purposes of the respective special fund. As indicated previously, we are concerned that it is not clear which would take precedence – this measure, which states that it shall not apply to funds for which federal or state law prohibits such a transfer, or the enabling legislation for the special or revolving fund which establishes a purpose for the fund.

While the University appreciates the \$38 million general obligation bond proceeds that are to be deposited in the subject special fund in fiscal years 2014 and 2015, the University's number one priority, Health & Safety projects alone total \$38 million for each of the two years, and to prevent an increase of backlog, funding the University's annual capital renewal requirements for the next two years totals another \$98 million. The University requests that the bill provide a minimum \$174 million in general obligation bonds to fund two years of Health & Safety projects and \$98 million for two years of annual capital renewal requirements.

HB 115 HD2 has the potential to positively impact the physical environment at all of our campuses, which will benefit the entire University of Hawai'i community and the State. However, we have concerns as to the application and effect of this measure on the operations of the University.

Thank you for the opportunity to testify on this measure.