

# HB 115

## Testimony

Measure Title: RELATING TO HIGHER EDUCATION.

Report Title: University of Hawaii; Repair and Maintenance; Bonds

Description: Establishes the Campus Planning Facility Board and the Major Repairs and Replacement Special Fund to address University repairs and maintenance. Transfers special fund moneys to the new special fund. Authorizes the issuance of general obligation bonds. Effective July 1, 2013. (HB115 HD3)

Companion:

Package: None

Current Referral: HRE, WAM

Introducer(s): CHOY

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE SENATE COMMITTEE ON HIGHER EDUCATION  
ON  
HOUSE BILL NO. 115, H.D. 3

March 14, 2013

RELATING TO HIGHER EDUCATION

House Bill No. 115, H.D. 3, 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 an unspecified sum in general obligation (G.O.) bond funds in FY 2013-14 and in FY 2014-15 for deposit into the MRRSF. The bill appropriates an unspecified sum 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. 3, 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. 2 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 debt cost of any additional G.O. bond will need to be included in the statewide financial plan.



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
Senate Committee on Higher Education  
March 14, 2013 at 2:45pm  
by  
Howard Todo  
Vice President for Budget and Finance  
University of Hawai'i

### **HB 115 HD3 – RELATING TO HIGHER EDUCATION**

Chair Taniguchi, Vice Chair Kahele, and Members of the Committee:

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 HD3 proposes establishing the Campus Planning Facility Board and the Major Repairs and Replacement Special Fund to address University repairs and maintenance. HB 115 HD3 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 an unspecified amount in general obligation bonds and authorizes a special fund appropriation ceiling of an unspecified amount 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. However, in fact, after the closing of the annual legislative session, the University already does convene 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. Thus, statutorily establishing such a board is not necessary.

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 concerns on Part II, Section 2. subsection 2 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 5% is 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), general obligation and revenue bond proceeds, research and training revolving funds, as well as other special and revolving funds which have been established by statute for specific purposes. In addition, the State Department of Budget and Finance has indicated in previous testimony that it is questionable whether the special fund created by HB 115 would meet the requirements of Section 37-52.3 of the HRS.

Moreover, aside from the technical concerns, the amount of the requirement, depending upon its application and amount, could constitute a significant impact on the operations, programs and personnel of the university. Tuition is the most flexible statutorily for purposes of this measure. If it and other revenues are assessed, it would negatively impact operating budgets. Ultimately it may have a domino effect resulting in a higher cost of attendance for students, whether it be tuition, student housing, parking rates, student fees, or other costs and restrict the flexibility of the University in carrying out its operations and pursuing its educational mission.

The University has additional concerns regarding proposed subsection 304A-B(c) 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 represent necessary working capital for the specific purposes of the respective special fund and with regard to revenue bond funded projects, are necessary for covering revenue bond debt service costs and any revenue bond reserve requirements. In addition, as indicated previously, application of this measure to specific special funds must be carefully determined. Furthermore, we are concerned that the use of the special fund created by this measure for the projects administered by the Campus Planning Facility Board not jeopardize the tax exempt status of the General Obligation bonds of the state or the revenue bonds of the university.

While the University appreciates the issuance of general obligation bond proceeds 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 \$122 million. Accordingly, the University requests that the bill provide a minimum \$198 million in general obligation bonds to fund \$76 million for two years of Health & Safety projects and \$122 million for two years of annual capital renewal requirements.

HB 115 HD3 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.