

TESTIMONY BY KALBERT K. YOUNG  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS  
ON  
HOUSE BILL NO. 416

February 1, 2013

RELATING TO ZIPLINES

House Bill No. 416 establishes the Ziplines Oversight Board, administratively attached to the Department of Commerce and Consumers Affairs (DCCA), to promote best practices and procedures within the ziplines industry in Hawaii and creates the Ziplines Special Fund into which fees and fines are deposited to pay for the operating expenses of the program.

While the Department of Budget and Finance appreciates the intent of the bill to establish the Ziplines Oversight Board to license and regulate the ziplines industry, we defer to DCCA regarding the technical issues and merits of the bill.

However, the department does not support the creation of the Ziplines Special Fund because the Compliance Resolution Fund - Professional Vocational Licensing Special Fund has already been established to support the 48 boards and commissions currently administratively attached to DCCA. Creating a new special fund to specifically support the purpose of the Ziplines Oversight Board is unnecessary.



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TO THE HOUSE COMMITTEE ON  
ECONOMIC DEVELOPMENT & BUSINESS

TWENTY-SEVENTH STATE LEGISLATURE  
REGULAR SESSION OF 2013

FRIDAY, FEBRUARY 1, 2013  
9:00 A.M.

**TESTIMONY ON HOUSE BILL NO. 416, RELATING TO ZIPLINES.**

TO THE HONORABLE CLIFT TSUJI, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify on House Bill No. 416, Relating To Ziplines. My name is Celia Suzuki, Licensing Administrator of the Department's Professional and Vocational Licensing Division. The Department offers the following testimony in opposition to the bill.

House Bill No. 416 establishes, in a new chapter, a Zipline Oversight Board ("Board") within the Department and creates a special fund to provide for sufficient operating costs to carry out the purposes of the new chapter. The bill sets forth the powers and duties of the Board, which includes establishing best practices and

procedures and adopting administrative rules pursuant to Chapter 91, Hawaii Revised Statutes ("HRS"). House Bill No. 416 also specifies that the rules shall address: (1) the registration of zipline operators by the Department; (2) fees to be assessed and collected; and (3) fines and penalties for violation of the rules.

The Department opposes House Bill No. 416 for the following reasons:

(1) The need to regulate zipline and canopy tour operators has not been established as required under chapter 26H, HRS. The Auditor, in her Report No. 12-08: Sunrise Analysis: Regulation of Ziplines and Canopy Tours, determined that there was no evidence of harm or abusive practices sufficient to warrant regulation, stating "[t]o the extent these businesses operating in Hawai`i must be inspected annually based on industry standards for insurance purposes, safety measures are already in place to protect the public."

(2) The bill would require the Department to regulate commercial activity outside of the Department's jurisdiction. Section 26-9, HRS, specifies that the Department's mission is to protect the interests of consumers throughout the State and to enforce all laws and rules governing the licensing and operation of trades, businesses, and professions, including banks, insurance companies, brokerage firms, and other financial institution. In contrast, zipline and canopy tours operators are businesses, not vocations or professions, operating in Hawaii to provide thrill-rides and entertainment.

The Auditor's report identified the Department of Labor and Industrial Relation's Occupational Safety and Health Division as having an "existing role in administering amusement rides as part of its elevator and boiler safety program and its existing

inspection and investigation expertise.” As such, the type of regulation contemplated in this bill is completely different from any of the other trades or professions that the Department regulates.

(3) House Bill No. 416 tasks the Board with establishing best practices and procedures, not public safety standards. As the Director of the Department of Labor and Industrial Relations comments in the Auditor’s Report, existing industry standards for this area are not acceptable as public safety standards. To expect the Board, comprised of three industry representatives and the Department’s Director or designee, to establish best practices and procedures, without input from eventual regulators on safety or enforcement, is problematic.

(4) If tasked, the Department would need considerable resources to stand up and staff a program. Such staff would include an executive officer, a secretary, and licensing branch assistants to administer the program. In addition, funds for administrative overhead costs would need to be authorized by the Legislature. Also, the Department’s investigators investigate individuals, not facilities, structures, or equipment. Significant training would be required to build a regulatory program with an enforcement component from the ground up. It is inappropriate for the Department to use existing funds from other licensees for such purposes.

For these reasons, the Department respectfully opposes House Bill No. 416.  
Thank you for the opportunity to testify on House Bill No. 416.