



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2014**

ON THE FOLLOWING MEASURE:

S.B. NO. 2905, S.D. 1, H.D. 1, RELATING TO THE UNIVERSITY OF HAWAII.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Friday, March 28, 2014

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): **WRITTEN TESTIMONY ONLY**

**(For more information, contact Diane Erickson,
Deputy Attorney General at (808) 586-0618)**

Chair Luke and Members of the Committee:

This bill (1) amends section 37-74(c), Hawaii Revised Statutes (HRS), to remove the limitations on review by the Department of Budget and Finance of the University of Hawaii's ("University") operation plan, to remove the limitations on the ability to modify or withhold planned expenditures by the University of Hawaii, and to repeal the University's flexibility to transfer appropriated funds and positions among programs, cost elements, and between quarters; (2) amends section 304A-2166, HRS, to prohibit the sale or gifting of land at the University of Hawaii - West Oahu acquired pursuant to Act 294, Session Laws of Hawaii 1998, without prior consent of the Legislature; (3) requires the University to provide direct services to undergraduate and graduate students interested in diversity careers relating to student affairs and higher education; and (4) repeals the University's ability to issue revenue bonds for parking structures and other facilities.

Article X, section 6, of the Hawaii State Constitution, gives the University of Hawaii Board of Regents "exclusive jurisdiction over the internal structure, management, and operation of the university." Section 6 further provides that: "This section shall not limit the power of the legislature to enact laws of statewide concern. The legislature shall have the exclusive jurisdiction to identify laws of statewide concern."

The Legislature should consider amending this bill to add a provision identifying the bill to be a law of statewide concern.

TESTIMONY BY KALBERT K. YOUNG
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 2905, S.D. 1, H.D. 1

March 28, 2014

RELATING TO THE UNIVERSITY OF HAWAII

Senate Bill No. 2905, S.D. 1, H.D. 1, proposes to amend Chapter 37-74, HRS, which would remove program budget execution exception provisions that are specific to the University of Hawaii (UH). The bill also prohibits the sale or gift of UH West Oahu land without prior consent of the Legislature and repeals the authority of the University to issue revenue bonds. Further, the bill appropriates an unspecified sum of general funds for direct services and research in higher education.

The Department of Budget and Finance (B&F) defers to the UH regarding the operational impacts of the program budget execution exception provisions. The effect of removing UH's program budget execution exception provisions will mean that the UH will be subject to budget execution processes as applicable to nearly all other executive departments. This will likely mean that UH will be subject to reviews and recommendations by B&F and approvals by the Governor. Operationally, this will likely add to UH's current bureaucratic processes.

Current program budget execution provisions of executive departments require review and recommendations from B&F staff to the Director of Finance, review and recommendations by the Director of Finance to the Governor, and then the approval of the Governor.

We do not know how this could affect UH's ability to more timely meet fluctuations in resource requirements due to actual student enrollments and would defer to UH for that operational insight.

With regards to repealing the UH's revenue bond authority, we would like to point out that the UH currently has an established revenue bond program through which capital projects and improvements are funded by revenue bonds supported by revenues generated by UH. If the intent of this bill is to have the UH cash fund their capital improvements through revenues generated, the Department would like to point out that the financing of long-lived assets through debt instruments can be a prudent form of financial management when appropriately planned and executed. However, if the intent of this bill would be to have the State fund UH's capital improvement projects through increased general obligation bond (GO) funding, this would create additional funding pressure upon the limited GO bond funding resource without any additional revenue to support increasing debt service requirements.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Written Testimony Presented Before the
House Committee on Finance
Friday, March 28, 2014 at 2:00 pm

by

Dr. Amy Agbayani
Director, Student Equity, Excellence & Diversity
University of Hawai'i at Mānoa

SB 2905 SD1 HD1 (Part III) – RELATING TO THE UNIVERSITY OF HAWAII

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

The University of Hawai'i supports Part III of SB 2905 SD1 HD1, which would fund 5 graduate assistants to conduct and disseminate research and support students interested in Asian American and Pacific Islander educational issues as well as careers in higher education and student affairs. Recent research shows AAPIs are underrepresented and underserved in many higher education institutions. AAPIs are only 5% of the nation but are the two fastest growing racial groups in the United States. Hawai'i is the state with the highest proportion of AAPI population and these groups are the majority in the state and the University of Hawai'i.

Funding graduate student assistants will increase the capacity of the Office of Student Equity, Excellence and Diversity at Mānoa to work collaboratively with AAPI scholars nationally and with faculty from academic units at Manoa and other campuses to address critical issues in higher education, and support careers in student affairs and higher education.

We support the intent of this bill provided that its passage does not replace or adversely impact priorities as indicated in the University's Board of Regents Approved Executive Biennium Budget.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Finance
March 28, 2014 at 2:00 p.m.

by

Howard Todo, Vice President for Budget and Finance/Chief Financial Officer
University of Hawaii

SB 2905 SD1 HD1 – RELATING TO THE UNIVERSITY OF HAWAII

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

Thank you for the opportunity to testify on this multi-faceted measure. This testimony will address Parts I, II, and IV of SB2905 SD1 HD1 and our strong opposition to these Parts.

PART I

The existing program execution flexibility provided in section 37-74, Hawaii Revised Statutes (HRS), recognizes that only 40 percent of the University's entire operating budget is supported by State general funds and, as a consequence, the University must leverage and reallocate our various revenue sources to meet our operating needs in a time-sensitive manner. The University routinely transfers funds to cover system wide expenses related to information technology, risk management, and payroll processing that by design are financed by a combination of both general funds and non-general funds. Another example of the University leveraging its funds are the efforts made to ensure the maximum delivery of instructional services by the community college system. Transfers of general funds and tuition revenues between community college campuses ensure that instructional services are available to students as enrollments fluctuate between campuses and by semesters. Further, the community college system has set-aside a portion of their tuition revenues for performance based funding allotments to reward campus achievement of their performance targets. Eliminating the University's authority to make transfers between programs would penalize a system that has been rewarding performance based upon cost-effective use of limited resources.

Article 10, section 6 of the Hawaii State Constitution recognizes the authority of the BOR "... to have exclusive jurisdiction over the internal structure, management, and operation of the university" in balance with the Legislature's "... power to enact laws of statewide concern". Given that 60 percent of the University's operating budget is funded by private individuals paying tuition, or contracts and grants awarded for specific purposes that cannot be re-allocated, an appropriate question may be whether the University should be required to consult with the State's Department of Budget and Finance (B&F) regarding management of non-general fund revenues that are collected by the University System for university-specific activities.

State Director of Finance Kalbert Young, in previous testimony on HB 1941, states that "The Department of Budget and Finance (B&F) defers to the UH regarding the operational

impacts of the program budget execution exception provisions. The effect of removing UH's program budget execution exception provisions will mean that the UH will be subject to budget execution processes as applicable to nearly all other executive departments. This will likely mean that UH will be subject to reviews and recommendations by B&F and approvals by the Governor. Operationally, this will likely add to UH's current bureaucratic processes."

In the context of our current statutory flexibility to request and receive annual allotments, our newly implemented financial management system reflects the best practices of higher education financial system and does not recognize fiscal quarters. As a consequence University fiscal administrators develop and input an annual budget at the beginning of each fiscal year. Should the University be required to request quarterly allotments from the Department of Budget and Finance, this would add to the University's bureaucracy when it is moving forward in adopting best practices.

Finally, we note that the University System annually submits more than one dozen budget and finance related reports (See Attached List) as requested by the legislature through budget provisos or state laws. Specifically, section 37-47, HRS, requires that we submit annual reports to the Department of Budget and Finance for each of our non-general funds. These reports are shared with the Legislature and can be viewed at:

<http://budget.hawaii.gov/wp-content/uploads/2013/12/Reports-on-Non-General-Fund-Information-Fiscal-Years-2011-2017-UOH.pdf>

PART II

Part II proposes to prohibit the sale or gift of the University of Hawai'i at West O'ahu land acquired pursuant to Act 294, Session Laws of Hawai'i 1996 without prior consent of the Legislature.

The University does not have immediate plans to sell any of its lands at UH West O'ahu, as we are currently updating its long range development plan, including its critical business plan. The primary objective of this business plan is to identify financial options with the goal of providing additional revenues for UH West O'ahu and reducing the need to request additional general funds in the future.

The Board of Regents is currently updating its Board policy on land sales and its statements on their purposes, which include the promotion and support of the University's educational and research mission while advancing the principals of environmental stewardship and sustainability. We also note that the Board of Regents has formed a task group to plan for University of Hawai'i – West O'ahu lands, which they expect to have a preliminary plan in August. This legislative measure may conflict with the University in meeting its mission.

The University's current focus for the land at UHWO is on ground leasing opportunities and there are no immediate plans to sell land, but the University needs the flexibility to sell land if a development opportunity which is compatible with the University campus should arise. For example, the current City's zoning calls for a significant portion of the lands surrounding the campus to be for residential development. In order for this to be practical, those lands would need to be sold in fee, since leasehold residential development is not feasible. These land sales proceeds would be applied against outstanding revenue bonds or loans, resulting in reducing its current debt service obligations within UH West Oahu's operating

budget. Should the University be required to get the Legislature's approval for land sales, the timely closing of any sale would be jeopardized if the Legislature is in recess.

PART IV

We respectfully oppose the repeal of Section 304A-2603 of the Hawai'i Revised Statutes and Chapter 304A, part VI, subpart D of the Hawai'i Revised Statutes. These statutes establish the structure under which the University is able to issue revenue bonds which are authorized by the Legislature to finance capital improvement projects.

Without these statutes, the University would be unable to issue revenue bonds when Capital Improvement Projects are authorized and appropriated by the Legislature to be funded by revenue bonds. Recent University of Hawai'i projects funded by revenue bonds include the Cancer Research Center, the UH West O'ahu Kapolei campus, energy conservation projects at the Community Colleges and Maui College, Hilo Student Housing and College of Pharmacy projects, Mānoa Student Housing renovations, and the UH Information Technology Building.

The ability to issue revenue bonds to fund projects authorized by the legislature to be funded by that source of financing is critical to the University.

For the above mentioned reasons, the University of Hawai'i System prefers the original intent of SB 2905 and we respectfully request that this measure remove Parts I, II and IV from the HD1.

University of Hawai'i
Budget and Finance
Reporting Requirements

Type of Report	Budget Proviso (Act 134)	HRS	Budget Testimony Tables
Biennium Budget Journal Tables/Appropriations Updates		37-68, 37-71, 37-72	Table 3, 4, 5, 6, 7, 8, 9, 10, 11
Biennium and Supplemental Budget Request Forms		37-68, 37-71, 37-72 Form A, Form B (Op), Table R, Table S (CIP)	Table 3, 4, 5, 6, 7, 8, 9, 10, 11
Hawai'i Annual Financial Audit/University of Hawai'i Annual Financial Audit		40-4, 40-5	
Non-general fund balances and projections	Section 129	37-47, 304A-2007	Table 12
Transfers of Appropriated Funds & Positions	Section 93	37-74	Table 10
Annual Report on Trust Fund Revenues and Gifts		304A-106	
Annual Report on Salaries/Salaries Exceeding Governor's Salary	Section 130	304A-1004	
Annual Report on University of Hawai'i tuition and fees special fund	Section 129	304A-2153	Table 12
Annual Report on Hawai'i scholarship and assistance special fund	Section 129	304A-2159	Table 12
Annual Report on Research and Training revolving fund	Section 129	304A-2253	Table 12
Annual Report on Community College Conference Center revolving fund	Section 129	304A-2273	Table 12
Personnel Actions (Vacant Positions, Separations/Hires/Unbudgeted Positions)	Section 113	37-68, 37-71, 37-72	Table 13, 14, 15
Overtime /Compensatory Time/Overpayments			Table 18, 19
Annual Report on Salaries/Salaries Exceeding Governor's Salary	Section 130	304A-1004	
Capital Improvement Projects/Revenues Bonds	Section 66, 74, 75	304A-2689	Table 20, 21, 22

**HAWAII OPERATING ENGINEERS
INDUSTRY STABILIZATION FUND**



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March 26, 2014

Honorable Sylvia Luke, Chair
House Committee on Finance
Hawaii State Capitol
415 South Beretania Street, Room 306
Honolulu, HI 96813

Dear Chair Luke:

RE: Comments on Senate Bill 2905, SD1, HD1 – Relating to University of Hawaii

My name is Kimberly Ribellia, Government Liaison, of the Hawaii Operating Engineers Industry Stabilization Fund (HOEISF), a labor management fund representing 4000 unionized members in heavy engineering site work and 500 general contractors specializing in heavy site and vertical construction.

On behalf of HOEISF, I would like to provide comments on Senate Bill 2905, SD1, HD1, which includes a provision to prohibit the sale and gift of land currently being used for the permanent campus of the University of Hawaii at West Oahu, including the surrounding land to which the University holds title, without the prior consent of the Legislature.

HOEISF asks if the Committee on Finance would consider amending the bill to place a moratorium on the sale or gift of UH West Oahu land for one year to allow the Board of Regents to finish its update on Board policy on land sales and provide the Legislature an update on its revised policy. The Legislature will then have an opportunity to review and comment on the new policy.

HOEISF concurs with the University's position that it needs the flexibility to sell, lease or establish a public/private partnerships for development opportunities for lands that UH West Oahu owns. The City's Honolulu Rail Transit Project has identified the UH West Oahu station to be located at Kualakai Parkway and UH West Oahu entrance (aka Campus Drive). Transient-oriented type of developments will occur within a ¼ mile of the transit station which provides a very unique opportunity for UH West Oahu to maximize the use of land owned for the benefit of the students and campus. Prohibiting the sale or gift of lands owned by UH West Oahu, without the prior consent of the Legislature, may create a missed opportunity for the University to generate potential income and fully integrate the University campus with the rail transit project.

HOEISF would like to thank the committee for the opportunity to provide comments on Senate Bill 2905, SD1, HD1.

Sincerely,

Kimberly Ribellia
Government Liaison
Hawaii Operating Engineers
Industry Stabilization Fund

TESTIMONY IN SUPPORT OF SB 2905

Submitted by Jenna Caparoso, Graduate Student and Research Assistant
Educational Administration, Assessment Office

University of Hawai'i at Mānoa

March 28, 2014

2:00 pm

State Capitol Room 308

Chair Sylvia Luke, Vice Chair Scott Y. Nishimoto, Vice Chair Aaron Ling
Johanson, and Members of the House Committee on Finance:

I would like to express my strong support for Senate Bill 2905 and to urge you to consider this critical legislation to fund five graduate assistants and student employee positions for the Student Equity, Excellence and Diversity (SEED) Office at the University of Hawai'i at Mānoa (UHM). This measure addresses a significant matter concerning the current state of higher education and its ability to embrace the educational needs reflective and inclusive of its entire student population.

Although Asian Americans and Pacific Islanders (AAPIs) are the two fastest growing racial population in the United States, they remain underrepresented, underserved, and often invisible at higher education institutions. This is evident in the lack of AAPI faculty and staff presence on campuses, disregard and devaluation of AAPI-focused research and dissemination, and limited access to resources for AAPI students and those interested in diversity careers.

The proposed measure would greatly aid in these issues by providing opportunities and resources for both undergraduate and graduate students to engage in research and scholarship that gives AAPI students and the larger AAPI communities a voice – one I must contribute to. As a Hawai'i-born and raised mixed-Asian American woman and masters student in the Educational Administration program at the University of Hawai'i at Manoa, I have committed my career path to actively supporting AAPIs and AAPI-focused scholarship. Much of my research interests surround racial and ethnic minority students, specifically students of Hawai'i. Furthermore, a large part of my decision to attend UHM (including my recent application to the doctoral program in Educational Administration) was because it is an ideal location for engaging in AAPI research. However, similar to the situations of other graduate students, I share funding concerns that may significantly impact my ability to continue a PhD at UHM. The opportunities afforded by SB 2905 would surely help to alleviate these personal concerns, as well.

The timing has never been more critical for educators and policy makers to engage in discussions on appropriate courses of action, such as Senate Bill 2905, that seek to give AAPIs in the state of Hawai'i and across the nation the currently overlooked attention in higher education they deserve. Such dialogues are catalysts for change – the beginnings of uniformed policies and practices that have the potential to cultivate awareness, respect, and compassion towards the entire student body – one inclusive of Asian Americans and Pacific Islanders.

I would like to express my sincere appreciation for your support on this issue. I urge you to pass SB 2905 and thank you for the opportunity to testify in support of SB 2905.