TESTIMONY BY KALBERT K. YOUNG
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STATE OF HAWAII
TO THE HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 458, S.D. 1, PROPOSED H.D. 1

April 3, 2013

RELATING TO THE STATE EDUCATIONAL FACILITIES IMPROVEMENT SPECIAL FUND

Senate Bill No. 458, S.D. 1, Proposed H.D. 1, among other amendments, repeals the State Educational Facilities Improvement Special Fund (SEFI) and provides that any funds remaining in the SEFI shall lapse to the general obligation bond fund on July 1, 2023. Additionally, Senate Bill No. 458, S.D. 1, Proposed H.D. 1, proposes to remove the requirement that general excise tax revenues be deposited into the SEFI and limits expenditures from the SEFI to projects authorized by the Legislature for fiscal years ending prior to July 1, 2014. This bill also amends Sections 36-27, 36-30, and 37D-2, HRS, for consistency with the proposed repeal of Section 36-32, relating to the SEFI.

The Department of Budget and Finance supports the repeal of SEFI. We recognize there are operational advantages for the Department of Education to maintain the SEFI, but the department takes the position that the original intent and financial benefit of the SEFI no longer exists.

Act 368, SLH 1989, established the SEFI and provided $90 million in general excise tax revenues each year from 1989 to 1995 to be deposited to the credit of the SEFI. Act 364, SLH 1993, subsequently allowed the SEFI to be funded with proceeds from the sale of general obligation bond funds in lieu of general excise tax receipts. Act 110, SLH 1999, reduced the amount to be deposited into the SEFI from $90 million per fiscal year to $45 million per fiscal year.

Over the years, capital improvement projects appropriated for education facilities have generally been authorized and funded with SEFI funds, which are then 100% capitalized through the issuance of general obligation bonds. We recognize the need to address the maintenance and upgrades of educational facilities; however, given the economic condition of the State and concerns on national funding support levels, we must address our school funding requirements within available funding resources. Thus, capital improvement project requests by departments should be reviewed on a statewide basis and allocated to programs based on statewide priorities.

As the general excise tax revenues are no longer used to fund State educational facilities improvements, and the Department of Education's capital improvement project requests are supported 100% with general obligation bonds, the Department of Education's capital improvement projects should be funded directly with general obligation bonds rather than through the SEFI. The SEFI is no longer necessary and should be repealed.

SUBJECT: GENERAL EXCISE, Repeal disposition to state educational facilities improvement special fund

BILL NUMBER: SB 458, Proposed HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Amends HRS section 237-31 to repeal the transfer of general excise tax revenues to the state educational facilities improvement special fund. Expenditures from the special fund shall be limited to projects authorized by the legislature for fiscal years ending prior to July 1, 2014. Also provides that lease payments required by financing agreements paid from the special fund shall only be made on those entered into prior to July 1, 2013.

Repeals HRS section 36-32 which would repeal the state educational facilities improvement special fund on July 1, 2023. Any remaining unencumbered balance in the fund shall lapse to the general obligation bond fund on July 1, 2023.

Makes non tax amendments to delete the department of education's ability to: (1) transfer appropriated funds and positions for the operating cost category between programs and cost elements in a program and between quarters; and (2) create temporary positions as necessary.

EFFECTIVE DATE: Upon approval as noted

STAFF COMMENTS: This measure proposes to repeal the transfer of general excise tax revenues to the state educational facilities improvement special fund and repeals the fund itself on July 1, 2023.

The earmarking provisions of this law were established nearly 25 years ago when the state general fund was flush with cash surpluses. While the rational was to secure dedicated funding for educational facilities, the real intent for this provision was to hide those surplus funds from public scrutiny, creating the illusion that there was no surplus as well as circumventing the constitutional ceiling on general fund expenditures as $90 million in general excise tax revenues were deposited directly into this special fund and did not pass through the general fund.

The1989 Tax Review Commission noted that use of this type of special fund financing is a "departure from Hawaii's sound fiscal policies and should be avoided." It also noted that special funds are appropriate where the revenues to the funds maintain some direct connection between a public service and the beneficiary of that service. The Commission found that special funds which merely set aside general funds cannot be justified as such actions restrict budget flexibility, create inefficiencies, and lessen accountability. It recommended that such programs can be given priority under the normal budget process without having to resort to this type of financing.

Seconding the Commission's harsh criticism was the State Auditor's report issued in February of 1991 that recognized that the "tax is levied on the general public rather than specific beneficiaries of the program," and thus the fund did not reflect a "direct link between user benefits and user charges." The Auditor recommended that this particular fund be repealed and that educational facilities should be funded through the normal capital improvements appropriations process - which this measure proposes to achieve.

Thus, this measure begins to phase out and ultimately repeals the educational facilities special fund and provisions which had earmarked general excise tax revenues and subsequently general obligation bond proceeds for the school facilities maintenance program. The bill specifies that moneys in this special fund may only be used for projects authorized by legislation before the end of the fiscal year 2014 and can only be used for leasing financing agreements entered into before the end of the current fiscal year. The special fund is then repealed on July 1 of the year 2023. This should return accountability to the legislature for the financing of school repairs and maintenance.

Digested 4/2/13