

# SB 2558

Allows state agencies and departments to rent or lease underused property or facilities to private partners and collect rent through in-kind services or cash.

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WRITTEN TESTIMONY  
OF  
DEAN H. SEKI, COMPTROLLER  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
TO THE  
SENATE COMMITTEE  
ON  
ECONOMIC DEVELOPMENT, GOVERNMENT OPERATIONS AND HOUSING  
ON  
February 10, 2014

S.B. 2558

RELATING TO ECONOMIC DEVELOPMENT

Chair Dela Cruz and members of the Committee, thank you for the opportunity to submit written testimony on S.B. 2558.

The Department of Accounting and General Services (DAGS) supports the intent of S.B. 2558 but not its passage in its current form because of the following concerns:

1. S.B. 2558 is based on a State agency setting up a master lease agreement with a private partner (developer) who will provide some form of construction services (renovations, repairs, new construction) for a State-owned property/facility, then lease the property/facility back to the State agency. However, this measure only addresses the payments by the private party to the State (in terms of cash or some form of "in-kind" services, which is presumed to be construction and/or development services), but is unclear on any payments made by the State agency to the developer for

performing the “in-kind” services. Also, pursuant to Chapter 171, Hawaii Revised Statutes (HRS), a State agency cannot typically enter into a master lease agreement for State-owned property without prior approval of the Board of Land and Natural Resources (BLNR) for that purpose.

2. Under this bill, the State agency will "retain CONTROL over the leased property, and the private partner shall retain a LEASE INTEREST only" (emphasis added).

Accordingly, the State agency will be responsible for procuring a developer for the master lease agreement (in accordance with Chapter 103D, HRS or Chapter 171, HRS), administering the master lease agreement, and collecting “fair market rent” from the tenants. However, most State agencies do not have the jurisdictional authority for those responsibilities.

It is also noted:

1. DAGS does not have any idle or underutilized property that it does not have any long term plans for because a primary DAGS function is to provide office space for State agencies of the Executive Branch and to use whatever property/facilities we have under our control for that purpose;
2. There is a shortage of State-owned office building spaces for State agency assignments, which is why DAGS has to lease commercial office spaces from the private sector for State agency office requirements;
3. In times of low borrowing rates for State “general obligation bonds”, the principal and interest cost is likely less than the cost to pay the developer for his work, plus the costs (in terms of time and/or money) expended to develop and go through a “Request for Proposals” process to procure a developer for a master lease agreement, pay for

professional assistance in the leasing and management of commercial tenants (if any),  
and the rental cost that State agency occupants will have to pay; and

4. It is questionable whether many State agencies have the expertise, knowledge or experience to perform the proposed “enhanced use lease/lease back” process.

Thank you for the opportunity to submit written testimony on this matter.