



**DEPARTMENT OF BUSINESS,
ECONOMIC DEVELOPMENT & TOURISM**

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Statement of
LUIS P. SALAVERIA
Director
Department of Business, Economic Development, and Tourism
before the
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS

Wednesday, February 14, 2018
9:30 a.m.
State Capitol, Conference Room 309

in consideration of

HB 2581
RELATING TO PUBLIC-PRIVATE PARTNERSHIPS.

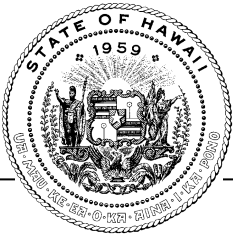
Chair Evans, Vice Chair Keohokalole, and Members of the Committee.

The Department of Business, Economic Development, and Tourism (DBEDT) supports the intent of HB 2581, which would establish an Office of Public-Private Partnership in the Department of Accounting and General Services and amends Chapter 103D to clarify the allowance of public-private partnerships relative to design-build-finance-operate-maintain contracting arrangements for public projects.

The Administration brought all the departments together to craft a bill that would satisfy each department's concerns. Thus, we prefer the language contained in HB2312 – Relating to Alternative Project Delivery. However, if you are so inclined to move this bill forward we would like to recommend amending the measure to alleviate DAGS' concerns that:

- The measure would require implementation under existing statutes. Chapters 171 and 103D of the HRS may contain provisions that could hinder the delivery of some projects.
- There does not appear to be an approval process for the projects.

Thank you for the opportunity to provide comments on this measure.



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Statement of
LEO R. ASUNCION
Director, Office of Planning
before the
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS
Wednesday, February 14, 2018
9:30 AM
State Capitol, Conference Room 309

in consideration of
HB 2581
RELATING TO PUBLIC-PRIVATE PARTNERSHIPS.

Chair Evans, Vice Chair Keohokalole, and Members of the House Committee on Economic Development & Business.

The Office of Planning (OP) supports HB 2581, which establishes an Office of Public-Private Partnership in the Department of Accounting and General Services (DAGS) and amends Hawaii Revised Statutes (HRS) Chapter 103D, the State Procurement Code to clarify the allowance of public-private partnerships (P3) relative to design-build-finance-operate-maintain contracting arrangements for public projects. The bill establishes a P3 Coordinator who will support and assist State and county agencies in pursuing best practices for undertaking P3 project delivery.

As lead agency for State Transit-Oriented Development (TOD) and co-chair of the Hawaii Interagency Council for Transit-Oriented Development (TOD Council), OP has been actively promoting the use of public-private partnerships through educational and informational workshops and meetings over the past year. Experience with public-private partnerships nationally and internationally shows that using this approach delivers projects on-time, under budget, and exceeds quality expectations. This contracting approach provides the public agency with cost certainty and transfers the risks of cost, schedule and performance to the private sector while maintaining public ownership of the asset.

In the TOD Council's *State TOD Strategic Plan* of December 2017, actions items recommended to improve TOD implementation include "Support legislation and funding to establish a Public-Private Partnership Office", and authorize standards of practice for P3 or alternative or innovative financing delivery systems.

While the Office of Planning supports this measure, we prefer the Administration's Bill relating to Alternative Project Delivery – HB 2312 and its companion bill, SB 2739, which was drafted to address concerns of executive branch departments. If this committee is inclined to

move the subject bill forward, we recommend amending this measure to alleviate DAGS' concerns that:

- The measure would require implementation under existing statutes. HRS Chapters 171 and 103D may contain provisions that could hinder the delivery of some projects; and
- There does not appear to be an approval process for the projects.

Thank you for this opportunity to testify.

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR
MARA SMITH
ASSISTANT ADMINISTRATOR

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
ECONOMIC DEVELOPMENT & BUSINESS

February 14, 2018, 9:30 AM

HOUSE BILL 2581
RELATING TO PUBLIC-PRIVATE PARTNERSHIPS

Chair Evans, Vice Chair Keohokalole, and members of the committee, thank you for the opportunity to submit comments on HB 2581.

The State Procurement Office (SPO) supports the intent of this measure. The SPO views the ability to enter into public-private partnerships (P3) as a creative tool for government to contract to deliver and finance State projects. HB 2581 amends various sections within HRS Chapter 103D to add this public-private partnership process. Among public procurement's guiding principles are value and transparency. Value ensures prudent use of taxpayer dollars. Transparency ensures accountability and system integrity, which in turn, fosters public confidence. These guiding principles are built into chapter 103D, our Hawaii State Procurement Code (the Code).

Special innovative procurements, like public-private partnerships, allow the State to procure when unusual or unique circumstances exist that require other than full competition, when standard procurement procedures would be contrary to the public interest. The verbiage in this Bill can be found in the American Bar Association (ABA) 2007 Model Code for Public Infrastructure Procurement (MC PIP), and it is also recommended by The Association for the Improvement of American Infrastructure (AIAI), the leading education and advocacy group focused on rebuilding America's infrastructure through public-private partnerships.

The Procurement Policy Board (PPB) in turn has the authority and responsibility to adopt rules that are consistent with each section of the Code to govern the procurement, management, and control of the goods, services or construction being procured. The SPO will also need to

partner with the Office of public-private partnership to develop policy and procedures, and actively assist in the procurement side of P3s. The SPO therefore requests one exempt FTE be assigned to the SPO for these reasons at approximately \$85,000 per year. We believe the office of public-private partnerships (OPP) should receive a minimum of two exempt FTEs.

The SPO would like to offer the following additional comments specific to the bill verbiage:

1. Page 6, Lines 6-14 states: ““Design-build-finance-operate-maintain”” means a project delivery method in which the purchasing agency enters into a single contract for design, construction, financing, maintenance, and operation of an infrastructure facility over a contractually defined period. “Design-build-operate-maintain” means a project delivery method in which the purchasing agency enters into a single contract for design, construction, maintenance, and operation of an infrastructure facility over a contractually defined period.”

The SPO believes that redefining the P3 term of design-build-finance-operate-maintain into flexible terms will give procurement professionals any combination of requirements. Therefore, we recommend the following replace these phrases:

Replace with: “Alternate project delivery” means a project delivery method in which the purchasing agency enters into a single contract for a combination of financing, maintenance, or operation in addition to design-build of an infrastructure facility over a contractually defined period.”

2. Page 6, Line 15-18 states: ““Independent peer reviewer services” means additional professional services provided to the purchasing agency in design-build-operate-maintain or design-build-finance-operate-maintain procurements....”

The SPO believes that redefining the P3 term of design-build-finance-operate-maintain into flexible terms will give procurement professionals any combination of requirements. Therefore, we recommend the following replace these phrases:

Replace with: ““Independent peer review services” means additional professional services provided to the purchasing agency in alternate project delivery procurements....”

3. SECTION 3 of this measure does not include an approval process (pre-, during, and post) for the projects. Therefore, we recommend the following additions to this phrase:

Add in the following definitions after Page 7, Line 12: ““Initial approval” means an approval by the Governor if a state project or the Mayor if a county project of a recommendation from the head of the purchasing agency to proceed with alternate project delivery procurement.

“Final approval” means an approval by the Director of Budget & Finance and the Comptroller if a state project or the Mayor if a county project of a recommendation from the head of the purchasing agency to execute an alternative project delivery agreement.

“Responsible alternate delivery persons” means the persons designated to attend meetings and otherwise stay apprised of important events and decisions related to an alternate project delivery after the initial approval and in anticipation of the final approval of the alternate project delivery, who shall include, at a minimum, representatives from Budget & Finance, the Comptroller, and the Attorney General if a state project or representatives from the Mayor and the Corporation Counsel if a county project.

4. Page 7, Lines 17-19 states: “(i) In addition to any other provisions of this section, construction projects may be solicited through a request for proposals to use the design-build, design-build-operate-maintain, or design-build-finance-operate-maintain project delivery method;”

The SPO believes that redefining the P3 term of design-build-finance-operate-maintain into flexible terms will give procurement professionals any combination of requirements. Therefore, we recommend the following replace these phrases:

Replace with: “(i) In addition to any other provisions of this section, construction projects may be solicited through a request for proposals to use the design-build, or alternate project delivery methods;”

5. Page 8, Lines 17-19 states: “(4) Each request for proposals to use the design-build-operate-maintain or design-build-finance-operate-maintain project delivery method shall:”

The SPO believes that redefining the P3 term of design-build-finance-operate-maintain into flexible terms will give procurement professionals any combination of requirements. Therefore, we recommend the following replace these phrases:

Replace with: “(4) Each request for proposals to use the alternate project delivery method shall:”

6. Page 8, Line 20 states: “(A) State the relative importance of:”

The SPO believes the intent of this statement is to have the resulting list be part of the evaluation criteria as opposed to simply a summary statement in a solicitation that is not attributed to any real value expectation of the offeror’s proposal. Therefore, we recommend the following addition to this phrase:

Replace with: “(A) For evaluation purposes, state the relative importance of:”

7. Page 9, Line 13-18 states: “(iii) In other circumstances identified by the comptroller by rule, to include and identify qualified and competent independent peer reviewer services, which shall be an additional evaluation factor in the award of the contract.”

The SPO is concerned that requiring the offeror to include and identify an independent peer reviewer services may not necessarily be independent. How would this be vetted? It could be perceived as a collusive measure. SPO would recommend this issue be covered under Rules.

In addition, this bill is written for all state departments and political sub-divisions. Each agency will have their own team working on this effort with support from the OPP. The Rules associated with the Procurement Code HRS 103D are developed and approved by the Procurement Policy Board. The Comptroller should not be specifically noted as the identifier for all P3s; instead this should be dependent on the makeup of the team and the final approvers. Therefore, we recommend the following addition to this phrase:

Replace with: "In other circumstances identified by the state or county agency team."

If the intent is to not allow flexibility, but to have viable, additional reasons added to Rules, this should be developed by the OPP in collaboration with the SPO, who will present it to the PPB, of which the Comptroller is a mandated member. Therefore, we would recommend the following addition to this phrase:

Replace with: "In other circumstances identified in Rules."

8. SECTION 4 of this measure does not include guidance on approval process after initial approval is received. Therefore, we recommend the following additions to this phrase:

Add in the following after Page 9, Line 18: "(C) Achieve initial approval and, thereafter, include responsible alternate delivery persons in important communications and meetings regarding the alternate project delivery throughout the procurement process."

9. SECTION 5 of this measure does not include guidance on P3 negotiations. Therefore, we recommend the following additions to this phrase:

Add in the following before Page 9, Line 18: "SECTION 5. Section 103D-303, Hawaii Revised Statutes, is amended by adding new subsections (j), (k), and (l) to read as follows:

"(j) In addition to any other provisions of this section, a contract for delivery of a construction project procured using an alternate procurement method:

- (1) Shall not be enforceable until it receives final approval under this section; and
- (2) Shall not be subject to Chapter 171.

(k) Notwithstanding any other provisions of this section to the contrary, the purchasing agency may engage in negotiations with the highest-ranked offeror in an alternative project delivery procurement and may negotiate:

- (1) The statement of work;
- (2) The contract price as it is affected by negotiating the statement of work; and
- (3) Any other terms and conditions reasonably related to those expressly authorized for negotiation in the solicitation of alternate project delivery proposals. Accordingly, offerors shall not submit, and the public entity shall not accept, for negotiation any terms and conditions that are not reasonably related to those expressly authorized for negotiation in the solicitation of alternate project delivery proposals. In conducting negotiations, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(l) Notwithstanding any other provisions of this section to the contrary, a purchasing agency may terminate negotiations with an offeror of an alternate project delivery if such negotiations are not successful and commence negotiations with the next highest scoring offeror, and continue this process until the public entity has:

- (1) Determined to award the contract to the offeror with whom it is currently negotiating; or
- (2) Determined to continue negotiations with the offerors; or
- (3) Determined to cancel the solicitation of the alternate project delivery.”

10. Page 10, Lines 16-18 states: “and uninterrupted provision of operations and maintenance services as elements of design-build-operate-maintain or design-build-finance-operate-maintain services:”

The SPO believes that redefining the P3 term of design-build-finance-operate-maintain into flexible terms will give procurement professionals any combination of requirements. Therefore, we recommend the following replace these phrases:

Replace with: “and uninterrupted provision of operations or maintenance services as elements of alternate project delivery procurements:”

Thank you.



Testimony to the House Committee on Economic Development & Business

Wednesday, February 14, 2018

9:30 am

State Capitol, Room 309

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RE: H.B. 2581 – Relating to Public Private Partnerships

Chair Evans, Chair, Vice-Chair Keohokalole & members of the Committee:

My name is Gladys Quinto-Marrone, CEO of the Building Industry Association of Hawaii (BIA-Hawaii). Chartered in 1955, the Building Industry Association of Hawaii is a professional trade organization affiliated with the National Association of Home Builders, representing the building industry and its associates. BIA-Hawaii takes a leadership role in unifying and promoting the interests of the industry to enhance the quality of life for the people of Hawaii.

BIA-Hawaii supports the intent of H.B 2581, which proposes to establish the Office of Public-Private Partnership and the position of State Public-Private Partnership Coordinator. The bill would add design-build-operate-maintain and design-build-finance-operate-maintain project delivery methods to the Procurement Code and related conditions and requirements.

As we understand it, Public-Private-Partnerships (P3's) come in a variety of different delivery methods. For example, the state currently engages in energy performance contracts which are procured under section 103 HRS. There are other leases, lease-like, and concession arrangements such as:

- Lease-Develop-Operate: the private party leases an existing facility from a public agency; invests its own capital to renovate, modernize, and/or expand the facility; and then operates it under a lease contract with the public agency.
- Lease Lease-backs: Public agency leases real property to a private partner for a stipulated price and the private partner then must design, build, finance and/or maintain improvements on the property, for which the public partner will make ongoing lease payments (capital lease purchase).
- Design-Build-Finance-Operate-Maintain: With the Design-Build-Finance-Operate-Maintain (DBFOM) approach, responsibilities for designing, building, financing, operating and maintaining are bundled together and transferred to private sector partners. Repayment is typically in the form of an availability payment.
- Concession arrangements can vary and may also include a lease. May be applied to both greenfield and existing facilities. Examples include:
- DBFM: A single contract is awarded for the design, construction and maintenance of a capital improvement. Title to the facility remains with the public sector
- DBFO: A single contract is awarded for the design, construction, and operation of a capital improvement. Title to the facility remains with the public sector
- Design-Build-Finance-Operate-Maintain: A single contract is awarded for the design, construction, financing, operation and maintenance of a capital improvement. Title usually remains with the public sector. Repayment is in the form of an availability payment or on the basis of



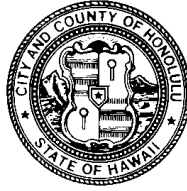
We believe the bill also needs to include language that would allow for the lease or concession of state owned facilities and/or infrastructure and also include land.

We understand that P3's are a hybrid between the procurement of services (i.e. Chapter 103D HRS) and the leasing of real property (i.e. Chapter 171 HRS), we believe a new section of the law should be created rather than amend either 103D or 171 HRS.

We support the intent of H.B. 2581, but would suggest that language that would allow for leases, lease-like, and concession arrangements be added to the bill. We appreciate the opportunity to express our views on this matter.

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TESTIMONY OF NELSON H. KOYANAGI, JR.
DIRECTOR OF BUDGET AND FISCAL SERVICES
CITY AND COUNTY OF HONOLULU
February 14, 2018, Conference Room 309

House Bill HB 2581, "Relating To Public-Private Partnerships"

Position: IN SUPPORT

TO: The Honorable Representative Cindy Evans, Chair
and Members of the Committee On Economic Development & Business

The Department of Budget and Fiscal Services, City and County of Honolulu, **strongly supports** House Bill No. HB 2581, Relating To Public-Private Partnerships.

The Budget and Fiscal Services (BFS) is in **strong support** of this bill that will amend Section 103D-4 Hawaii Revised Statutes to add Public-Private Partnerships (P3) procurement avenues in providing the framework for public-private partnerships in the Hawaii Public Procurement Code, HRS Chapter 103D. This bill will do much to encourage and foster future public-private partnerships that will provide the best value and performance in the delivery of assets and services for the benefit of the general public.

However, we do have some concerns over the requirement under SECTION 3 (third paragraph) "to include and identify qualified and competent independent peer reviewer services, which shall be an additional evaluation factor in the award of the contract". It may not be practical to expect that an offeror would provide truly independent peer review services or that the peer review services proposed by an offeror could be evaluated because these peer review services would be paid for by the offeror.

Mahalo for the opportunity to testify on this bill. Should you have any questions or concerns, please feel free to contact the Department of Budget & Fiscal Services' Division of Purchasing at 808-768-5535 or bfspurchasing@honolulu.gov.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

RANDY PERREIRA, Executive Director • Tel: 808.543.0011 • Fax: 808.528.0922

The Twenty-Ninth Legislature, State of Hawaii
House of Representatives
Committee on Economic Development & Business

Testimony by
Hawaii Government Employees Association

February 14, 2017

H.B. 2581 – RELATING TO PUBLIC-PRIVATE PARTNERSHIPS

The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO raises strong concerns over the intent of H.B. 2581 which establishes and appropriates funding for the Office of Public-Private Partnership within the Department of Accounting and General Services to plan and coordinate collaboration amongst state and county agencies to develop and implement public-private partnership projects and adds “design-build-operate-maintain” and “design-build-finance-operate-maintain” project delivery methods to the Procurement Code.

While we acknowledge that there can be benefit to certain public-private partnerships (P3s) in securing and leveraging private funds for the public’s use, there are also many examples of inefficiencies, failures and negative impacts to public assets and the public’s trust in government as a result of P3s. The privatization of the Maui Region of the Hawaii Health Systems Corporation was advertised as a necessary public-private partnership that would benefit everyone, yet it not only continues to drastically disrupt working families statewide but will also cost tax payers hundreds of millions of dollars to implement and operate.

As drafted, we respectfully raise strong concerns over the unintended consequences of establishing any office that has carte blanche authority over its own objectives, goals, criteria, and measurements of efficacy. In order to ensure the public’s trust, there must be accountability and oversight for every agency that expends tax payer dollars, independent of political shifts or the whims of a new Administration. Additionally, we raise strong concerns over the implications of adding the definitions of “design-build-operate-maintain” and “design-build-finance-operate-maintain,” which will enable the state to privately operate any and all of its facilities, including public schools, prisons, hospitals, water treatment plants, collection systems, landfills, public roads, parking lots, airports, and highways, among others. H.B. 2581 is overly broad and all encompassing, and we prefer policy that strictly limits the scope of P3s to securing a fusion of private sector funding.

Before we consider committing funds and state agency efforts for another "new fix," we respectfully suggest the Legislature prioritize its efforts in determining areas where government inefficiency is resulting in lost resources and revenues, as well as rely on the expertise and suggestions of its workforce.

Thank you for the opportunity to raise concerns on the broad scope of H.B. 2581.

Respectfully submitted,

for 
Randy Perreira
Executive Director

DAVID Y. IGE
GOVERNOR



RODERICK K. BECKER
Comptroller
AUDREY HIDANO
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

TESTIMONY OF
RODERICK K. BECKER, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS
ON
WEDNESDAY, FEBRUARY 14, 2018
9:30 A.M.
CONFERENCE ROOM 309

H.B. 2581

RELATING TO PUBLIC-PRIVATE PARTNERSHIPS.

Chair Evans, Vice Chair Keohokalole, and members of the Committee, thank you for the opportunity to testify on H.B. 2581.

The Department of Accounting and General Services (DAGS) offers the following comments for the Committee's consideration.

H.B. 2581 will establish the Office of Public-Private Partnership and the position of State Public-Private Coordinator within DAGS to provide support in contracting for public-private partnerships to deliver and finance public projects theoretically at a lower lifecycle cost and more diversified risk than the traditional delivery processes. While the Department supports the intent of this measure to deliver public projects in a more efficient manner, we would like to highlight some areas of concerns:

- The lines of authority are not clear with respect to notification and the solicitation processes related to public-private partnership agreements. DAGS recommends that this bill address this matter by including a provision requiring notifications to

DAGS by State agencies planning to conduct an evaluation of a potential public-private partnership arrangements. DAGS further recommends that a provision be added to require a review and approval process by the Departments of Budget and Finance, Accounting and General Services and the Attorney General prior to State agencies formally commencing the procurement process. Specifically, this review and approval process should include proposed solicitations for proposals prepared by State agencies prior to issuance to the public.

- The bill currently does not address or provide for an oversight role within the Executive branch as a final check or review prior to a State department or agency entering into a binding contractual arrangement with a private sector partner. As such arrangements may have significant upfront costs (i.e. planning, design and construction), a portion of which may have to borne by the State that will also include potentially long term financial commitments by the State in the form of maintenance and lease back payments, a final review and approval process should be undertaken to confirm the methodologies utilized to assess the economic benefits net of the costs have been adequately addressed prior to final commitment by the State to such arrangements. DAGS respectfully requests that such review and approval process include the Departments of Budget and Finance, Accounting and General Services and Attorney General.
- The bill does not address the key terms and conditions of such arrangements including a key term related to the length of the public-private partnership arrangement. DAGS believes the bill should include a period not exceeding 99 years to provide potential private sector partners who may be required to commit

significant financial resources and bear most of the overall risks of such projects with an adequate investment time horizon to achieve an acceptable financial rate of return to justify the risks that a private partner may be undertaking in such projects. Other example of such minimum standards is the requirement for the terms of the planning, acquisition, financing, development, design, construction, re-construction, rehabilitation, replacement, improvement, maintenance, management, operation, repair, leasing, and ownership of facilities. DAGS respectfully requests that the bill include standards for minimum terms and conditions for public-private partnerships.

- Rather than amending and attempting to work within existing procurement laws, DAGS recommends providing for exemptions from procurement laws to provide the most flexibility to deliver projects with the diverse financial and legal structures that public-private arrangements may take. For public-private partnership arrangements, DAGS recommends exemption from Hawaii Revised Statutes (HRS) Chapter 103D and provision for an alternative method for delivering public-private partnership projects.
- To accommodate a maximum 99-year lease term, DAGS recommends that public-private partnership arrangements under this Act be exempted from HRS Chapter 171. In its research to date, DAGS has identified projects on the mainland involving different types of projects including a sports facility, a toll road development project and a transit-oriented development project in which the lease terms granted by the public entities ranged from 80 to 99 years.

- DAGS respectfully requests the Committee's consideration to provide an appropriation for a total of 3 staff positions including the Coordinator position to provide DAGS with the minimum staffing levels necessary for the Department to fulfill its responsibilities under this Act.

The Administration introduced H.B. 2312 (and companion bill S.B. 2739) Relating to Alternative Project Delivery to provide an alternative method for State government to finance and deliver public projects on time and on budget and with the exception of Chapters 171 and 103D, in accordance with existing statutes. H.B. 2312 will:

- Allow State government to elect an alternative method of managing public lands and awarding contracts that is separate and apart from Chapters 171 and 103D. This in turn allows agencies to utilize both existing and future forms of project delivery, including public-private partnerships and lease-back options that exceed 65 years.
- Establish an alternative project delivery program within DAGS to assist public entities with the development, solicitation, evaluation, award, and delivery of qualified projects.
- Maintain oversight by the Director of Finance, the Comptroller, and the Attorney General.

DAGS believes this combination of basic features in H.B. 2312 allows for the most flexible means with which to explore and develop partnerships that would be most advantageous to the State. The measure provides guidance to agencies wishing to engage in alternative project delivery while simultaneously protecting the best interests of the State. Within this framework, all existing and future forms of public-private partnerships may be explored and implemented to

finance and deliver public projects on time, on budget, and in compliance with, among other laws, public labor union laws, prevailing wage laws, environmental and historic preservation laws, and all permitting laws. We encourage your consideration of H.B. 2312 which is based on a measure enacted by Washington, D.C. in 2015.

Thank you for the opportunity to provide comments on this measure.

HB-2581

Submitted on: 2/13/2018 9:16:41 AM

Testimony for EDB on 2/14/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	OCC Legislative Priorities Committee	Support	No

Comments:

**PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES
DEMOCRATIC PARTY OF HAWAII
TO THE COMMITTEE ON ECONOMIC DEVELOPMENT &
BUSINESS**

THE HOUSE OF REPRESENTATIVES

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Wednesday, February 14, 2018

9:30 a.m.

Hawaii State Capitol, Conference Room 309

RE: Testimony in Support of HB 2581, RELATING TO PUBLIC-PRIVATE PARTNERSHIPS

To the Honorable Cindy Evans, Chair; the Honorable Jarrett Keohokalole, Vice-Chair and the Members of the Committee on Economic Development and Business:

Good morning, my name is Melodie Aduja. I serve as Chair of the Oahu County Committee ("OCC") Legislative Priorities Committee of the Democratic Party of Hawaii. Thank you for the opportunity to provide written testimony on House Bill No.2581 relating to the Office of Public-Private Partnership and the position of State Public-Private Partnership Coordinator.

The OCC Legislative Priorities Committee is in favor of House Bill No. 2581 and supports its passage as Public-private partnership projects will help the state and local governments in undertaking certain capital improvement projects in a more cost-effective and efficient manner. A public-private partnership is a contractual agreement between a public agency and a private entity that allows for a greater risk transfer to the private sector in the delivery and financing of a public project in a manner that creates greater value for the public than traditional delivery methods.

House Bill No.2581 is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it establishes the Office of Public-Private Partnership and the position of State Public-Private Partnership Coordinator. Adds design-build-operate-maintain and design-build-finance-operate maintain project delivery methods to the Procurement Code and related conditions and requirements.

The DPH Platform states that "[w]e believe that government plays a vital role in nurturing and regulating our economic system. We believe that private and public employers, as responsible members of the community, by providing good jobs and fair pay and benefits, are essential for economic expansion, diversification, innovation, and entrepreneurship. We reaffirm our commitment to a progressive tax structure and will work to re-establish a system based upon "ability to pay."

Availability of financial support and a capable educated people are critical to our economic expansion and diversification. The management of businesses should be ethical and responsive to the community with transparency for investors and shareholders guaranteeing sound, healthy management. Innovation through the generation of intellectual property should be the goal of our economic diversification. We support the continuing protection of intellectual property developed in the state of Hawai'i.

We need to give priority to the development of "green" sustainable industries and business. We need financial literacy and asset building programs to strengthen our 'ohana. Green commerce includes biodegradable or recycling packaging. We need to pursue relationships with the information technology industry. We need to invest in world-class higher education to stimulate our economic resources. We need to reduce our dependence on tourism, real estate development, and military. A diversified economy will help to create diversified jobs. (Platform of the DPH, P.2, Lines 56-73 (2016)).

Given that House Bill No. 2581 establishes the Office of Public-Private Partnership and the position of State Public-Private Partnership Coordinator to evaluate and implement capital improvement projects in a more cost-effective and efficient manner, it is the position of the OCC Legislative Priorities Committee to support this measure.

Thank you very much for your kind consideration.

Sincerely yours,

/s/ **Melodie Aduja**

Melodie Aduja, Chair, OCC Legislative Priorities Committee

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Email: communications@ulupono.com

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT & BUSINESS
Wednesday, February 14, 2018 — 9:30 a.m. — Room 309

Ulupono Initiative Strongly Supports HB 2581, Relating to Public-Private Partnerships

Dear Chair Evans, Vice Chair Keohokalole, and Members of the Committee:

My name is Murray Clay and I am Managing Partner of the Ulupono Initiative, a Hawai'i-based impact investment firm that strives to improve the quality of life for the people of Hawai'i by working toward solutions that create more locally produced food; increase affordable, clean, renewable energy; and better management of waste and fresh water. Ulupono believes that self-sufficiency is essential to our future prosperity and will help shape a future where economic progress and mission-focused impact can work hand in hand.

Ulupono strongly supports HB 2581, which establishes the Office of Public-Private Partnership (P3), the Coordinator position, and establishes new delivery methods, because it aligns with our goals of developing infrastructure more efficiently and affordably.

The State of Hawai'i has many infrastructure needs, yet often finds itself faced with complex projects that are over budget, not on time, or not built or maintained in a quality manner. One solution is to work with the private sector on planning, building, financing, operating, and maintaining projects. Yet, these complex deals require expertise in bridging workable and financially appropriate structures for the benefit of all parties. The funding for an Office of Public-Private Partnership and staff is vital if Hawai'i wants to participate in public-private partnerships.

At conferences and thru our consultants, we have heard that private sector financiers often want to work with a local dedicated P3 office that can assist them in navigating that locale's needs, laws, and politics. Dedicated staff would provide an important liaison in attracting private sector financing interest while also encouraging consistent out of the box thinking from within the government bureaucracy.

In late 2016, Ulupono became interested in P3s as federal funding for the rail project was threatened to be revoked. We learned more about public-private partnerships and subsequently commissioned a study conducted by Jones Lang LaSalle to look for alternative

Investing in a Sustainable Hawai'i

financing solutions for the rail project. After reviewing the analysis, we became a proponent of P3 structures as being a more effective way to conduct business for certain large-scale government infrastructure projects. For example, we believe if the Honolulu rail project used a P3 structure such as design-build-finance-operate-maintain at the project's beginnings, the City and County of Honolulu would have significantly reduced its financial exposure and likely improved project delivery and accountability. In addition, according to the study's findings, the total cost for the rail project increases by \$114 million for every year of delay. The City would have been able to lock in many of their costs, which greatly assists lawmakers for future budget planning purposes. Currently, the Honolulu Area for Rapid Transit board is supportive of P3s and has hired Ernst and Young to further look into P3 solutions for the rail project.

As costs in Hawai'i continue to rise at a rapid rate, existing infrastructure continues to age, and government's expensive long-term obligations continue to grow, it seems logical that State government would want to setup structures and personnel to support alternative delivery methods such as P3. Furthermore, under the current Trump administration, it appears federal funding for infrastructure projects might favor projects that incorporate private sector funding. Without building up internal State government P3 expertise and experience, Hawai'i could risk losing a large amount of federal funding over the coming years.

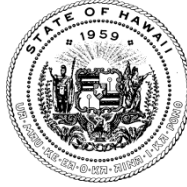
From the rail study, we also discovered that it would be helpful for lawmakers to establish in statute or administrative rules that the State is able to use P3 structures such as design-build-operate-maintain and design-build-finance-operate-maintain. Without a definitive ruling, there appears to be varied opinions amongst key stakeholders, about what P3 structures are currently allowed.

Thank you for this opportunity to testify.

Respectfully,

Murray Clay
Managing Partner

DAVID Y. IGE
GOVERNOR



Testimony by:
JADE T. BUTAY
INTERIM DIRECTOR

Deputy Directors
ROY CATALANI
ROSS M. HIGASHI
EDWIN H. SNIFFEN
DARRELL T. YOUNG

IN REPLY REFER TO:

LATE

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 14, 2018
9:30 a.m.
State Capitol, Room 309

H.B. 2581
RELATING TO PUBLIC PRIVATE PARTNERSHIPS

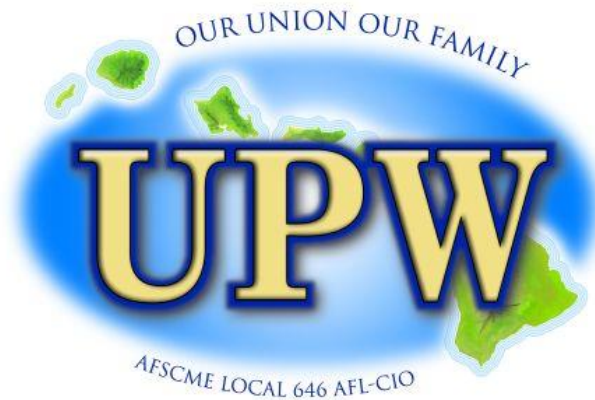
Committee on Economic Development and Business

The Department of Transportation (DOT) **supports** this bill which proposes to establish the Office of Public-Private Partnership and the position of State Public-Private Partnership Coordinator within the Department of Accounting and General Services (DAGS) as well as add two project delivery methods to the Procurement Code (HRS 103D) under the Competitive Sealed Proposals Method of Procurement.

Procurement challenges and contract administration challenges seem to show the need for a procuring agency to have different options for project delivery. Creating a coordinator and a state office providing the support and guidance to the procuring agency to opt for this method may help in its successful implementation.

This proposed bill should be reviewed together with the proposed Alternative Project Delivery Bills (SB2739 and HB2312) which as proposed, would create a new chapter in the Hawaii Revised Statutes (HRS) allowing the procuring agency to contract outside of HRS 103D and HRS 171 (Conservation and Resources Laws).

Thank you for the opportunity to provide testimony.



LATE

THE HAWAII STATE HOUSE OF REPRESENTATIVES
The Twenty-Ninth Legislature
Regular Session of 2018

COMMITTEE ON ECONOMIC DEVELOPMENT AND BUSINESS

The Honorable Cindy Evans, Chair
The Honorable Jarrett Keohokalole, Vice Chair

DATE OF HEARING: Wednesday, February 14, 2018
TIME OF HEARING: 9:30 a.m.
PLACE OF HEARING: Conference Room 309
State Capitol
415 South Beretania Street

TESTIMONY ON HOUSE BILL 2581 RELATING TO PUBLIC-PRIVATE PARTNERSHIPS

By DAYTON M. NAKANELUA,
State Director of the United Public Workers (UPW),
AFSCME Local 646, AFL-CIO

My name is Dayton M. Nakanelua, State Director of the United Public Workers, AFSCME, Local 646, AFL-CIO. The UPW is the exclusive bargaining representative for approximately 12,000 public employees, which include blue collar, non-supervisory employees in Bargaining Unit 01 and institutional, health and correctional employees in Bargaining Unit 10, in the State of Hawaii and various counties. The UPW also represents about 1,500 members of the private sector.

HB2581 establishes the Office of Public-Private Partnerships and adds design-build-operate-maintain and design-build-finance-operate-maintain project delivery methods to the Procurement Code. The UPW does not support outsourcing operations and maintenance of public facilities. We strongly believe in the public policy established by the Hawaii State Constitution establishing the civil service and right to collective bargaining. We respectfully oppose including “operate and maintain” in the State Procurement Code.

Thank you for the opportunity to submit this testimony.

LATE

HB-2581

Submitted on: 2/13/2018 11:05:30 PM

Testimony for EDB on 2/14/2018 9:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
De MONT R. D. CONNER	Ho'omanapono Political Action Committee (HPAC)	Support	Yes

Comments:

We STRONGLY SUPPORT this GREAT UNION BUSTING BILL! The opportunity would now end the monopoly that UNIONS have had over the cost of designing, construction & operation. Finally the HAWAII taxpayer will not have to shell out another pile of generational debt. Mahalo.