

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR
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**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEES
ON
WAYS AND MEANS
February 28, 2018 11:00 a.m.

SENATE BILL 2702, SD 1
RELATING TO DEVELOPMENT OF THE AEROSPACE INDUSTRY

Chair Dela Cruz and Vice Chair Keith-Agaran, and members of the committees, thank you for the opportunity to submit testimony on Senate Bill 2702, SD1. The State Procurement Office (SPO) opposes the exemption language on page 58, SECTION 2, lines 3 to 4 set forth below.

§201-U Exemption of development corporation from taxation and competitive bidding.

The above bill language states that the developmental corporation shall not be subject to the Procurement Code (Code) for soliciting competitive sealed bids. This subsection is ambiguous because there is no further language that address exemption from competitive bidding other than the title. The Code is the single source of public procurement policy to be applied equally and uniformly, while providing fairness, open competition, a level playing field, government disclosure and transparency in the procurement and contracting process vital to good government.

Public procurement's primary objective is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in awarding of contracts. To legislate that any one entity should be exempt from compliance with both HRS chapter 103D and 103F conveys a sense of disproportionate equality in the law's application.

Exemptions to the Code mean that all procurements made with taxpayer monies will not have the same oversight, accountability and transparency requirements mandated by those procurement processes provided in the Code. It means that there is no requirement for due

diligence, proper planning or consideration of protections for the state in contract terms and conditions, nor are there any set requirements to conduct cost and price analysis and market research or post-award contract management. As such, Agencies can choose whether to compete any procurement or go directly to one contractor. As a result, leveraging economies of scale and cost savings efficiencies found in the consistent application of the procurement Code are lost. It also means Agencies are not required to adhere to the Code's procurement integrity laws.

The National Association of State Procurement Officials state: "Businesses suffer when there is inconsistency in procurement laws and regulations. Complex, arcane procurement rules of numerous jurisdictions discourage competition by raising the costs to businesses to understand and comply with these different rules. Higher costs are recovered through the prices offered by a smaller pool of competitors, resulting in unnecessarily inflated costs to state and local governments."

When public bodies are removed from the state's procurement code, it results in the harm described above. As these entities create their own procurement rules, businesses are forced to track their various practices. Moreover, a public body often can no longer achieve the benefits of aggregation by using another public body's contract because different state laws and regulations may apply to the various public bodies making compliance more difficult.

Each year new procurement laws are applied to state agencies causing state agency contracts to become more complex and costly, while other public bodies, such as agencies with strong legislative influence, are exempted. Relieving some public bodies from some laws by exempting or excluding them from compliance with a common set of legal requirements creates an imbalance wherein the competitive environment becomes different among the various jurisdictions and the entire procurement process becomes less efficient and costlier for the state and vendors.

Thank you.



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Ways and Means
Wednesday, February 28, 2018 at 11:00 a.m.

By

Ted Ralston, Unmanned Systems Program Director, Applied Research Laboratory - UH
on behalf of

Vassilis L. Syrmos, Vice President for Research and Innovation
University of Hawai'i System

SB 2702 SD1 – RELATING TO DEVELOPMENT OF THE AEROSPACE INDUSTRY

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Committee:

The University of Hawai'i (UH) respectfully submits comment on SB 2702 SD1.

The original measure, SB 2702, was based on the Legislature's belief that the Office of Aerospace Development (OAD) at DBEDT was being disestablished, thus requiring its current programs be housed in some other way at DBEDT to be saved. In actuality, OAD is not being dissolved and DBEDT is actively interviewing candidates to staff the office. Thus, the need to re-assign current OAD programs to a new business structure within DBEDT, no longer applies.

As a result, UH respectfully recommends that the Legislature amend SB 2702 SD1 by deleting all sections related to Hawai'i Unmanned Air System (UAS) Test Range (line 3 on page 62 thru line 11 on page 65), one of the programs currently under OAD – as it is not related to the space launch and space technology focus of the measure.

In the larger view, a public-private corporation designed around successful models in other states would be highly appropriate for Hawai'i, potentially bringing together commercial (including international) partners, financiers, academia and government, to spur growth in Hawai'i's aerospace sector and help to diversify the state's economy. Such an entity could fulfill the intent of SB 2702 SD1.

Thank you for the opportunity to comment.



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

DAVID Y. IGE
GOVERNOR

LUIS P. SALAVERIA
DIRECTOR

MARY ALICE EVANS
DEPUTY DIRECTOR

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Statement of
LUIS P. SALAVERIA
Director
Department of Business, Economic Development and Tourism
before the
SENATE COMMITTEE ON WAYS AND MEANS
Wednesday, February 28, 2018
11:00 a.m.
State Capitol, Conference Room 211
in consideration of
SB 2702, SD1
RELATING TO DEVELOPMENT OF THE AEROSPACE INDUSTRY.

Chair Dela Cruz, Vice Chair Keith-Agaran, and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) offers **comments with concerns**. This measure would create a single Aerospace Development Corporation for the State of Hawaii, while repealing current programs.

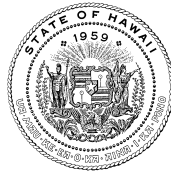
Contrary to the well-meaning intent of this measure, this would be a significant step backwards for PISCES, the Challenger Center, the Unmanned Aerial Systems Test Site project and the efforts to develop a spaceport and an equatorial launch site for small satellites on Hawaii Island. DBEDT is interviewing now to fill the Office of Aerospace position which provides the administrative support for aerospace programs.

Currently, there are bills which remove PISCES from under the Office of Aerospace Development (OAD) and attach it to DBEDT as an independent attached agency. These bills create a more independent PISCES and highlight it as an Agency under DBEDT which will significantly benefit the way in which it operates.

A unified Aerospace Agency is a project of such magnitude that it requires planning and additional funding in order to succeed. The Hawaii Aerospace Advisory Committee and the PISCES Board of Directors are excellent resources that should be consulted with regards to the creation of such agency.

Thank you for this opportunity to offer comments.

DAVID Y. IGE
GOVERNOR



LAUREL A. JOHNSTON
DIRECTOR

KEN N. KITAMURA
ACTING DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

**STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE**

P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY

TESTIMONY BY LAUREL A. JOHNSTON
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 2702, S.D. 1

**February 28, 2018
11:00 a.m.
Room 211**

RELATING TO DEVELOPMENT OF THE AEROSPACE INDUSTRY

Senate Bill No. 2702, S.D. 1, establishes the Hawaii Aerospace Development Corporation (HADC) to grow investments and job opportunities in the aerospace industry and for workforce development; transfers all rights, powers, functions, and duties of the Office of Aerospace Development (OAD) and Pacific International Space Center for Exploration Systems (PISCES) to the HADC; repeals the OAD and PISCES; and establishes the HADC Special Fund with a cap of \$3,000,000 at the end of any fiscal year.

While the Department of Budget and Finance supports efforts to grow investments and provide job opportunities, as a matter of general policy, the department does not support the creation of any special fund, which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work and an explanation why the program cannot be implemented successfully under the general fund appropriation process;

- 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries, or a clear link between the program and the sources of revenue;
- 3) provide an appropriate means of financing for the program or activity; and
- 4) demonstrate the capacity to be financially self-sustaining. In regards to Senate Bill No. 2702, S.D. 1, it is difficult to determine whether the proposed special fund would be self-sustaining.

Thank you for your consideration of our comments.

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
NO. 1 CAPITOL DISTRICT BUILDING
250 SOUTH HOTEL STREET, SUITE 107
HONOLULU, HAWAII 96813
TELEPHONE: 808-586-1400 FAX: 808-586-1412
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To: Senate Committee on Ways and Means

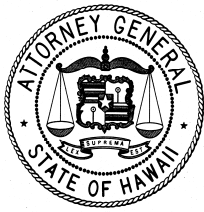
From: Cheryl Kakazu Park, Director

Date: February 28, 2018, 11:00 a.m.
State Capitol, Conference Room 211

Re: Testimony on S.B. No. 2702, S.D. 1
Relating to Development of the Aerospace Industry

Thank you for the opportunity to submit testimony on this bill, which would establish a Hawaii Aerospace Development Corporation. The Office of Information Practices (“OIP”) takes no position on the substance of the bill. OIP testified previously with concerns about a broadly written confidentiality provision and closed meeting purpose in an earlier version of this bill, at proposed section 201-Z, HRS. The previous Committees replaced that language with language recommended by OIP. Thus, OIP has no further concerns regarding this bill.

Thank you for the opportunity to testify.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

S.B. NO. 2702, S.D. 1, RELATING TO DEVELOPMENT OF THE AEROSPACE INDUSTRY.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Wednesday, February 28, 2018 **TIME:** 11:00 a.m.

LOCATION: State Capitol, Room 211

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

(For more information, contact Gregg J. Kinkley,
Deputy Attorney General, at 586-1180)

Chair Dela Cruz and Members of the Committee:

The Department of the Attorney General provides the following comments.

The purpose of this bill is to establish the Hawaii Aerospace Development Corporation ("HADC"), transfer the rights, powers, functions, and duties of the Office of Aerospace Development ("OAD") and the Pacific International Space Center for Exploration Systems ("PISCES") to the HADC, and repeal OAD and PISCES.

The Department wishes to point out a technical error in word choice in this bill which, if left uncorrected, will render the bill unconstitutional.

In §201-T of the current draft (Hawaii aerospace development corporation special fund), on page 57, line 3, through page 58, line 2, the phrase "are appropriated " on page 57, line 16, should be deleted and the phrase "that are appropriated by the legislature shall be used" should be substituted, as follows:

All moneys in the fund that are appropriated by the legislature shall be used for the purposes of and shall be expended by the development corporation for the operation, maintenance, and management of its industrial parks, projects, facilities, services, and publications, and to pay the expenses in administering the special purpose revenue bonds of the development corporation or in carrying out its project agreements.

Further, in §201-V (Revenue bond fund accounts), in the clause beginning on page 58, line 20, and continuing onto page 59, line 2, the last word on page 58, line 21, “appropriate,” should be deleted and the word “use” substituted, thus:

The development corporation shall have the right to use, apply, or expend the revenues derived with respect to the project agreement for a project for the following purposes:

If these two word changes are not made, the current draft of this bill will, unintentionally we believe, constitute a continuing appropriation, unconstitutionally attempting to bind future legislatures or delegate a unique legislative power to an administrative agency. Section 5 of article VII of the State Constitution provides that “[n]o public money shall be expended except pursuant to appropriations made by law.”

Thank you for the opportunity to comment.



February 23, 2018

Members of the 29th State Legislature
Hawaii State Capitol
415 S. Beretania Street
Honolulu, Hawaii 96813

Re: **SB2702 SD1** - RELATING TO DEVELOPMENT OF THE AEROSPACE INDUSTRY.

I am pleased to provide comments on this measure, which proposes to establish an Aerospace Development Corporation in Hawaii to enhance aerospace-related investments, job opportunities, and workforce development programs statewide.

As Chairman of the Aerospace States Association's Space Committee, I currently am engaged with state-based discussions nationwide to help expand and diversify the United States aerospace industry. Several states have established a variety of organizations to advance their aerospace programs – for example, Space Florida (<http://www.spaceflorida.gov>), the Virginia Commercial Space Flight Authority (<http://www.vaspace.org>), and the California Space Authority (<http://www.dfigraphics.com/csa-website/>), each of which leverages their state's strategic resources and capabilities through public-private partnerships to promote their respective aerospace visions and opportunities.

The common key to success with each of these organizations has been their ability to proactively link scientific, commercial, and educational capabilities and resources within their state to broader corporate and governmental aerospace development objectives in ways that can help reduce the costs, enhance the benefits, and accelerate timetables for future space missions. This, in turn, has been enabled/promoted through flexible organizational structures and management, engaging representatives from government, industry, and both educational and training institutions statewide in collaborative efforts to define and pursue opportunities that can grow their aerospace sectors.

Although this vision is in part captured through the intent of SB2702, the proposed aerospace development corporation should be empowered to operate with minimal constraints – helping to promote both governmental and private sector organizations and initiatives supporting Hawaii's aerospace sector, but established as an independent organization, with a board of directors that represents the proposed beneficiaries (e.g., departments of State and County governments, commercial enterprise, and both public and private educational institutions). This corporation should also help advance (not replace) ongoing aerospace initiatives, such as the Pacific International Space Center for Exploration Systems (PISCES), the Office of Aerospace Development, and the Hawaii Aerospace Advisory Committee, as well as catalyze the formulation of new aerospace programs that can build upon Hawaii's strategic assets and capabilities.

I therefore strongly recommend establishing the proposed Aerospace Development Corporation as an independent, not-for-profit organization (with appropriate departments of State and County government represented on its Board of Directors) to both enable and help guide the expansion and diversification of aerospace enterprise statewide, and would be happy to address any questions concerning this recommendation – including specific suggestions for launching this initiative based upon highly successful models adopted in other states.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read "Jim Crisafulli". The signature is fluid and cursive, with a large initial "J" and "C".

Jim Crisafulli
Chairman, National Space Committee
Aerospace States Association



February 23, 2018

Members of the 29th State Legislature
Hawaii State Capitol
415 S. Beretania Street
Honolulu, Hawaii 96813

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Jim Crisafulli
Chairman, National Space Committee
Aerospace States Association



Statement of
Rodrigo Romo
Program Director
Pacific International Space Center for Explorations Systems (PISCES),
Before the
Senate Committee on Ways and Means
Wednesday, February 28th, 2018 , 11:00 AM
State Capitol, Conference Room 211

In consideration of
SB2702, SD1
RELATING TO DEVELOPMENT OF THE AEROSPACE INDUSTRY

Chair Dela Cruz, Vice Chair Keith-Agaran and members of the Committee.

Aloha Kakou:

I want to express my personal appreciation for your support of the aerospace industry in Hawaii and offer comments related to SB 2702, SD1

I understand, and appreciate the intent of this bill to create a single Aerospace Development Corporation for the State of Hawai'i, however, I have some concerns which I would like to bring to this committee's attention. Currently there are two bills (HB 2324 & SB 2751) which remove PISCES from within the Office of Aerospace Development (OAD) and attached it to DBEDT as an independent attached agency. These bills intend to create a more independent PISCES and highlight it as an Agency under DBEDT which will significantly benefit the way in which we operate.

PISCES needs adequate funding for core operations to allow the staff to pursue additional grant funding for specific applied research projects that can lead to commercialization after PISCES carries out the proof of concept work. Over the past 4 years, PISCES has been creating a name brand that is now recognized in the Aerospace Industry and that is associated with the State of Hawai'i. This recognition has allowed us to procure supplemental funds in the form of several Research Grants. We currently have other proposals for grants being submitted. Dissolving PISCES and forming a new agency would set us back significantly.

I support the idea of a unified Aerospace Agency, however, I believe a project of this magnitude deserves proper planning and funding in order to succeed. I believe that the PISCES Board of Directors is an excellent resource that should be consulted with regards of the creation of such agency.

Thank you for this opportunity to offer comments.

Rodrigo Romo
Program Director
PISCES
99 Aupuni St. Ste 212-213
Hilo, HI 96720

SB-2702-SD-1

Submitted on: 2/25/2018 3:31:33 PM

Testimony for WAM on 2/28/2018 11:00:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Richard Reed	Individual	Oppose	No

Comments:

I find the justifications for this new board and its independent spending authority to be unjustified and ill advised. Space exploration is a extremely risky business and can be dangerous to those on the ground. Additionally this business would require vast amounts of energy that would reduce our renewable energy percent unless we greatly raise our efforts to convert to renewables. Additionally at launch time vast amounts of CO2 would be released into the atmosphere. While there may be some argument for private industry locating part of their business here how can you ask the people of Hawaii to underwrite or invest in it?