

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
EXECUTIVE DIRECTOR

STATE OF HAWAII

DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT AND TOURISM
HAWAII HOUSING FINANCE AND DEVELOPMENT CORPORATION
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Honolulu, Hawaii 96813
FAX: (808) 587-0600

IN REPLY REFER TO:

Statement of
Craig K. Hirai
Hawaii Housing Finance and Development Corporation
Before the

**SENATE COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM,
AND TECHNOLOGY**

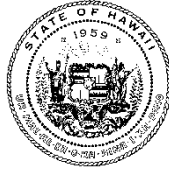
February 5, 2018 at 1:25 p.m.
State Capitol, Room 414

In consideration of
S.B. 2705
RELATING TO PUBLIC-PRIVATE PARTNERSHIPS.

The HHFDC *offers the following comment* on S.B. 2705. HHFDC supports and utilizes public-private partnerships to foster the development of affordable housing. However, we prefer the language of S.B. 2739, a similar Administration bill.

Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR



SARAH ALLEN
ADMINISTRATOR
MARA SMITH
ASSISTANT ADMINISTRATOR

**STATE OF HAWAII
STATE PROCUREMENT OFFICE**

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TESTIMONY
OF
SARAH ALLEN, ADMINISTRATOR
STATE PROCUREMENT OFFICE
TO THE SENATE COMMITTEE
ON
ECONOMIC DEVELOPMENT, TOURISM, AND TECHNOLOGY
February 5, 2018, 1:25 p.m.

SENATE BILL 2705
RELATING TO RELATING TO PUBLIC-PRIVATE PARTNERSHIPS

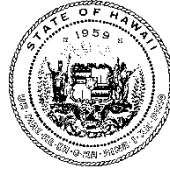
Chair Wakai, Vice Chair Taniguchi, and members of the committee, thank you for the opportunity to submit testimony on Senate Bill 2705.

The State Procurement Office (SPO) supports the intent of this measure. The SPO views the ability to enter into public-private partnerships as a creative tool for government to contract to deliver and finance State projects.

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.

Thank you.

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
SENATE COMMITTEE ON
ECONOMIC DEVELOPMENT, TOURISM, AND TECHNOLOGY
ON
MONDAY, FEBRUARY 5, 2018
1:25 P.M.
CONFERENCE ROOM 414

S.B. 2705

RELATING TO PUBLIC-PRIVATE PARTNERSHIPS.

Chair Wakai, Vice Chair Taniguchi, and members of the Committee, thank you for the opportunity to testify on S.B. 2705.

The Department of Accounting and General Services (DAGS) has concerns regarding this measure and offers the following comments for the committee's consideration.

S.B. 2705 authorizes the Department of Business, Economic Development, and Tourism (DBEDT) to establish and fill five full-time equivalent (5.0 FTE) state public-private partnership coordinator positions, exempt from Chapter 76, Hawaii Revised Statutes (HRS), and placed under the Director of DBEDT in order to manage certain public-private partnerships entered into by the State in addition to maintaining certain contracts, proposals, and negotiations associated with the State's public-private partnerships. Public-private partnerships involving the Hawaii Public Housing Authority are exempt from this Act. DAGS would like to highlight several areas of concern:

- The term "public-private partnership" is not defined.
- Other than a reference in Section 1 to manage certain public-private partnerships entered into by the State and manage certain contracts, proposals, and

negotiations associated with the State's public-private partnerships, the lines of authority are not clear with respect to the authority of DBEDT and the state agency with the need for such arrangements for initiating and, more importantly, entering into a contractual relationship with a private sector partner. DAGS highly recommends that this bill address this matter to ensure the roles and responsibilities of the office and state agencies are clarified. We further recommend that such an office be placed within DAGS.

- The bill currently does not address or provide for an oversight role within the Executive branch as a final check or review prior to the State, through potentially one agency, DBEDT, 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 arrangements, 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 the Office of the 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 in order 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 such private partner may be undertaking in such projects. DAGS respectfully requests that the bill include standards for minimum terms and conditions for public-private partnerships. An example of such minimum standards is the requirement for the terms of the

planning, acquisition, financing, development, design, construction, reconstruction, rehabilitation, replacement, improvement, maintenance, management, operation, repair, leasing, and ownership of facilities.

- The bill does not address the procurement methods permitted under a public-private partnership arrangement. To provide the most flexibility to accommodate the diverse financial and legal structures that public-private arrangements may take, DAGS recommends that the bill address this issue by providing for specific exemptions from procurement laws. For public-private partnership arrangements, DAGS recommends exemption from HRS 103D to provide 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 171.

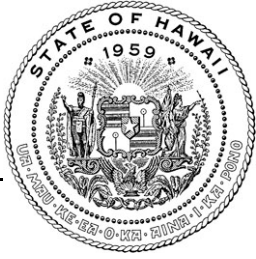
The Administration introduced S.B. 2739 (and companion bill H.B. 2312) Relating to Alternative Project Delivery to provide an alternative method for State government to finance and deliver public projects on time and on budget that are in line with existing statutes. S.B. 2739 will:

- 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 S.B. 2739 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 S.B. 2739 which is based on a measure enacted by Washington, D.C. in 2015.

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



DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT & TOURISM

DAVID Y. IGE
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Statement of
LUIS P. SALAVERIA
Director
Department of Business, Economic Development and Tourism
before the
**SENATE COMMITTEES ON ECONOMIC DEVELOPMENT, TOURISM, AND
TECHNOLOGY**

Monday, February 5, 2018
1:25 p.m.
State Capitol, Conference Room 414

in consideration of
SB 2705
RELATING TO PUBLIC-PRIVATE PARTNERSHIPS.

Chair Wakai and Vice Chair Taniguchi, and Members of the Committee.

The Department of Business, Economic Development and Tourism (DBEDT) appreciates the intent of SB2705, which would establish an office of Public-Private Partnership within DBEDT and appropriates funds for five FTE positions so long as its passage does not replace or adversely impact priorities indicated in our Executive Budget.

DBEDT agrees that public-private partnerships allow for projects to be delivered in a more efficient manner by increasing the effective use of State resources. Thus, DBEDT prefers the Administration's Bill SB2739, which would provide an alternative method of managing public lands and awarding contracts that is separate and apart from Chapters 171 and 103D, HRS.

Thank you for this opportunity to testify on this measure.

SB-2705

Submitted on: 2/4/2018 10:53:50 AM

Testimony for ETT on 2/5/2018 1:25:00 PM

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

Comments:

**PRESENTATION OF THE
OAHU COUNTY COMMITTEE ON LEGISLATIVE PRIORITIES
DEMOCRATIC PARTY OF HAWAII**

TO THE COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM, AND
TECHNOLOGY

THE SENATE

TWENTY-NINTH LEGISLATURE

REGULAR SESSION OF 2018

Monday, February 5, 2018

1:25 p.m.

Hawaii State Capitol, Conference Room 414

RE: **Testimony in Support** of SB 2705, RELATING TO SUSTAINABLE
DEVELOPMENT GOALS

To the Honorable Glenn Wakai, Chair; the Honorable Brian T. Taniguchi, Vice-Chair
and Members of the Committee on Economic Development, Tourism, and Technology:

Good afternoon. 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 Senate Bill No.
2705, relating to five Public-private Partnership Coordinator Positions at the Office of
Public-private Partnership at DBEDT. The OCC Legislative Priorities Committee is in
favor of Senate Bill No. 2705 and support its passage.

Senate Bill No. 2705, is in accord with the Platform of the Democratic Party of Hawai'i ("DPH"), 2016, as it authorizes the establishment of five state public-private partnership coordinator positions within the Department of Business, Economic Development, and Tourism to manage certain public-private partnerships entered into by the State and associated contracts and proposals. Senate Bill No. 2705, also establishes the Office of Public-Private Partnership within the Department of Business, Economic Development, and Tourism.

Specifically, the DPH Platform states that "[w]e believe in the vigorous enforcement of our environmental laws and increased public-private stewardships and citizen involvement in protecting our resources." (Platform of the DPH, P. 8, Lines 432-433 (2016)).

Given that Senate Bill No. 2705 establishes five Public-private Partnership Coordinator Positions at the Office of Public-private Partnership at DBED for the purpose of increasing economic development in the State through the collaboration between the public and private sectors, 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

Email: legislativepriorities@gmail.com, Tel.: (808) 258-8889

DAVID Y. IGE
GOVERNOR

RODERICK K. BECKER
COMPTROLLER



An Agency of the State of Hawaii

ROSS I. YAMASAKI
CHAIRMAN, STADIUM AUTHORITY

SCOTT L. CHAN
MANAGER

RYAN G. ANDREWS
DEPUTY MANAGER

TESTIMONY
OF
ROSS YAMASAKI, CHAIRMAN
STADIUM AUTHORITY
TO THE
SENATE COMMITTEE
ON
ECONOMIC DEVELOPMENT, TOURISM, AND TECHNOLOGY
February 5, 2018

S.B. 2705

RELATING TO PUBLIC-PRIVATE PARTNERSHIPS

Chair Wakai, Vice Chair Taniguchi, and members of the committee, thank you for the opportunity to submit testimony in support of the concept of Public-Private Partnerships (P3) and the intent of SB2705 to provide P3 as a State-wide financing option for those State projects that align with the criteria and requirements of P3 and the benefits and value that P3 has to offer to those P3-aligned projects.

The Stadium Authority (Authority) appreciates the Legislature's commitment towards providing an opportunity to pursue other viable financing alternatives such as public-private partnerships (P3). This type of alternative could potentially support the financing of projects such as the building of a new Aloha Stadium and development of its surrounding ancillary property. This measure comes at a time when the Authority is initiating its Master Planning and Environmental Impact Study (EIS) process that will provide valuable information to evaluate its applicability with a P3 model of financing.

In supporting this measure, the Authority would also like to share the following comments to ensure that the proposed P3 office is provided a smooth implementation path.

In its January 2017 meeting, the Authority approved a resolution stating its intention to build a new stadium as being the most financially prudent course of action. The Authority has also established new goals and objectives in planning, designing, building, and financing a new stadium facility that builds upon several of the major projects that the Authority and stadium management have been working on over the past several years.

- Lifting of the Federal and City deed restrictions – Completion of this project marks a major milestone and accomplishment for the State of Hawaii and the Stadium Authority.
- The Honolulu Rail Transit Project – An important rail transit station will be located on stadium property and provide another connection between Aloha Stadium and West and East Oahu.
- Capital improvement projects – Concurrent with the foregoing, the Authority is engaged in ongoing major repairs and maintenance to address the health and safety issues identified by the Authority’s consultants.
- Masterplan/EIS Project - The Authority is proceeding with a Masterplan and EIS for the Stadium and its property, which will provide information needed to evaluate next steps in development.

These major projects are important steps for the Authority to move towards meeting its overall goals and objectives for the Stadium redevelopment.

Mahalo for the opportunity to provide this testimony in support of the concept and intent of SB 2705.



**Testimony to the Senate Committee on Economic Development, Tourism,
and Technology
Monday, February 5, 2018 at 1:25 P.M.
Conference Room 414, State Capitol**

RE: SENATE BILL 2705 RELATING TO PUBLIC-PRIVATE PARTNERSHIPS

Chair Wakai, Vice Chair Taniguchi, and Members of the Committee:

The Chamber of Commerce Hawaii ("The Chamber") **supports the intent** of SB 2705, which proposes to establish five state public-private partnership coordinator positions within the department of business, economic development, and tourism to manage certain public-private partnerships entered into by the State and associated contracts, proposals, and negotiations, except public-private partnerships entered into by Hawaii public housing authority. The Bill also proposes to establish an office of public-private partnership within the Department of Business, Economic Development, and Tourism.

The Chamber is Hawaii's leading statewide business advocacy organization, representing about 2,000+ businesses. Approximately 80% of our members are small businesses with less than 20 employees. As the "Voice of Business" in Hawaii, the organization works on behalf of members and the entire business community to improve the state's economic climate and to foster positive action on issues of common concern.

As we understand it, Public-Private-Partnerships (P3s) 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 user fees.

We believe that while there is a need to centralize the P3 expertise to provide consistent services to agencies seeking P3 projects, there is a more immediate need to have legislation in place that would allow the state to enter into the various P3 delivery models. Having a clear process established in the statute will not only provide the P3 office with the means to analyze and implement a P3 project but more importantly, provide private investors with transparency, predictability, and certainty in the process. We believe the bill also needs to include language that would allow for the lease, lease-back or concession of state owned facilities and/or infrastructure including an interest in the state-owned land.

We understand that P3s are effectively 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 SB 2705 but would suggest that language that would allow for leases, lease-like, and concession arrangements be added to the bill. Thank you for the opportunity to testify.