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**TESTIMONY TO THE COMMITTEE ON ECONOMIC DEVELOPMENT, TOURISM,
AND TECHNOLOGY**

**Monday, February 5, 2018
1:25 pm
State Capitol, Room 414**



RE: S.B. 2705 – Relating to Public Private Partnerships

Chair Wakai, Vice-Chair Taniguchi, & 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 S.B. 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.

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 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 P3's 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 S.B. 2705, 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.



HAWAII GOVERNMENT EMPLOYEES ASSOCIATION
AFSCME Local 152, AFL-CIO

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

LATE

The Twenty-Ninth Legislature, State of Hawaii
The Senate
Committee on Economic Development, Tourism, and Technology

Testimony by
Hawaii Government Employees Association

February 5, 2018

S.B. 2705 – RELATING TO PUBLIC-PRIVATE PARTNERSHIPS

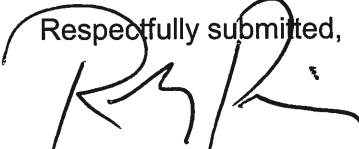
The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO would like to comment on the broad nature of S.B. 2705, which establishes an Office of Public-Private Partnership and authorizes the establishment of five state public-private partnership coordinator positions within the Department of Business, Economic Development, and Tourism to manage certain public-private partnerships, contracts, proposals and negotiations.

While we generally support the concept that there are potential benefits to certain public-private partnerships (P3s) in securing and leveraging private funds for the public's use, there are also examples of inefficiencies, failures and negative impacts to public assets and the public's trust in government as a result of P3s.

As drafted, we respectfully raise 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. While we can broadly support allocating state resources to capture private funding for public use, we cannot support so-called partnerships in which the state pays for the private operation of a facility or service.

Public-private partnerships can result in positive results for taxpayers and the community, we strongly believe that an appropriate oversight structure must be in place before such initiatives are pursued. Proper oversight and accountability can protect the public's interests, and ensure the long term protection of public assets. As drafted, we believe this measure to be too broad, and not sufficient to protect the public interest. We strongly urge that this bill be amended to ensure accountability and proper oversight before it is further considered.

Thank you for the opportunity to provide comments on S.B. 2705.

Respectfully submitted,

Randy Perreira
Executive Director

LATE

SB-2705

Submitted on: 2/5/2018 1:30:02 PM

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

Submitted By	Organization	Testifier Position	Present at Hearing
David Z. Arakawa	Land Use Research Foundation of Hawaii	Comments	No

Comments:

The Land Use Research Foundation of Hawaii (LURF), submits the following COMMENTS in support of the intent of SB 2705, which (1) authorizes 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, proposals, and negotiations, except public-private partnerships entered into by Hawaii public housing authority; (2) establishes an office of public-private partnership within the department of business, economic development, and tourism; and (3) appropriates funds.

LURF members have participated successfully in public-private opartmartnership in Hawaii, and it supports the intent of SB 2705, however, there are several other bills relating to public-private partnerships, and it encouratges this Committee and the Legislature to review all bills relating to public-private partnerships and collaborate to establish a revised bill that reflects the consensus of all stakeholders.

Please feel free to contact David Arakawa, LURF Executive Director, if you have any questions.