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FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY

TESTIMONY BY WESLEY K. MACHIDA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON SENATE BILL NO. 725

February 14, 2017

9:25 A.M.

Room 211

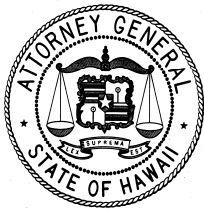
RELATING TO BONDS

Senate Bill No. 725 prohibits the use of general obligation or revenue bond proceeds to pay the unfunded pension or other post-employment benefit liabilities accrued for state employees or retirees.

The Department appreciates the Legislature's concern regarding language in the State's Debt Management Policy which lists "Unfunded pension or healthcare long-term liabilities" among the general purposes for which debt may be issued. The Department also believes that given the current municipal marketplace environment and available counter investment options, this option may not be consistent with good fiscal policy at this time. However, should the bond market and counter investment market change in the future, the Department believes that the use of general obligation or revenue bond proceeds to fund, to some degree, the unfunded pension or healthcare liabilities should be retained as an option. Please note that any issuance of GO or Revenue bonds for

purposes listed in the State's Debt Management Policy would require specific approval/authorization of the Legislature as provided for in the general appropriations acts.

Thank you for your consideration of our comments.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2017**

ON THE FOLLOWING MEASURE:
S.B. NO. 725, RELATING TO BONDS.

BEFORE THE:

SENATE COMMITTEE ON WAYS AND MEANS

DATE: Tuesday, February 14, 2017 **TIME:** 9:25 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Randall S. Nishiyama, Deputy Attorney General

Chair Tokuda and Members of the Committee:

The Department of the Attorney General provides the following comments regarding a possible constitutional issue in this bill.

This bill may not achieve its purpose, which is to prohibit the use of general obligation bonds or revenue bonds to pay for the unfunded pension or healthcare long-term liabilities incurred for state employees and retirees.

This provision, which restricts the rights of a future Legislature to legislate, could be challenged as violative of article III, section 1, of the Hawaii State Constitution.

Article III, section 1, of the Hawaii State Constitution, provides:

Section 1. The legislative power of the State shall be vested in a legislature, which shall consist of two houses, a senate and a house of representatives. Such power shall extend to all rightful subjects of legislation not inconsistent with this constitution or the Constitution of the United States.

"[A]bsent a constitutional restriction on the legislative power, one legislature cannot restrict or limit the right of a succeeding legislature to exercise the power of legislation." State ex. rel. Stenberg v. Moore, 544 N.W.2d 344, 349 (Neb. 1996). Thus, the Legislature has complete legislative authority and may enact legislation as it determines except as limited by the Hawaii State Constitution or the United States Constitution. Consequently, this bill could be challenged as violative of article III, section 1, of the Hawaii State Constitution, by attempting to restrict the power of a

succeeding Legislature to legislate by prohibiting the use of general obligation bonds or revenue bonds to pay for the unfunded pension or healthcare long-term liabilities incurred for state employees and retirees.

Thank you for the opportunity to testify on this matter.