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

TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS
ON
SENATE BILL NO. 2322

February 6, 2020
3:45 P.M.
Room 225

RELATING TO CERTIFICATES OF PARTICIPATION.

The Department of Budget and Finance (the "Department") offers the following comment on Senate Bill No. 2322 which prohibits the Department from issuing any Certificates of Participation (COPs) that exceeds \$10 million. This bill will take away the Department's flexibility by reducing the financing options available to the Department for the acquisition of real or personal property.

Thank you for your consideration of our comments.

TESTIMONY REGARDING SB2322

Chair Thielen, Vice Chair Inouye, and members of the Senate Government Operations Committee:

I write in support of SB2492. I would also like to offer a friendly amendment. This bill prevents the Department of Budget and Finance from issuing a certificate of participation (COP) under Chapter 37D that exceeds \$10 million.

I am an officer in an organization, Protect Our Ala Wai Watersheds, which could directly benefit by passage of this bill. Our organization seeks to promote eco-friendly alternatives to the Army Corps' current flood mitigation project for the Ala Wai Watershed and to encourage the Army Corps to seriously consider those alternatives.

Last year the Governor requested an appropriation of \$125 million to fund the local sponsor's portion of the flood management project's cost (SB77 (2019)). Partially due to significant public opposition, the Legislature declined his request. Undeterred, the Governor instructed the Department of Budget and Finance to fund the project through a financing agreement under Chapter 37D. Specifically, B & F began a process to sell COPs in November of 2019.

Our organization sued to stop the sale. The court agreed with us and enjoined the State from selling the COPs before the state environmental impact statement had been approved. A few days after that October 29 decision, the Mayor of Honolulu informed the Governor that he could not approve the EIS and that certain aspects of it had to be re-done. That stopped the sale.

But we believe that the Governor still intends to finance the project by selling COPs once the Mayor approves the revised EIS. This bill's enactment would help to prevent that.

We have recently received information that the Army Corps has given the City and the State a new deadline of March 15 to find the money and to sign on as a local sponsor of the Project. The State does not appear to have requested an appropriation for the Project this session; therefore, issuing COPs seems to be the only alternative. If the COPs process were started up again, it would not be halted by this bill unless SB2322 were amended to be effective on January 1, 2020.

We are requesting that friendly amendment.

In addition, this bill deserves support for two broader reasons:

1. The Legislature needs to take back control of the purse strings. As B & F interprets Chapter 37D, it can decide to enter into a financing agreement to sell COPs and then come to the Legislature afterwards for an appropriation. If the Legislature chose not to make the appropriation, the State's bond rating would be negatively impacted. A ten million-dollar limit would allow the executive branch access to money for unanticipated

contingencies. For anything above that amount, the legislature needs to approve an appropriation.

2. The Legislature is the proper vehicle to consider sizable appropriations because public hearings are required. Without public hearings the public could be entirely shut out of the decision-making process.

Thank you.

Elton T. Fukumoto, Secretary
Protect Our Ala Wai Watersheds

SB-2322

Submitted on: 2/6/2020 7:33:31 AM

Testimony for GVO on 2/6/2020 3:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nanea Lo	Individual	Support	No

Comments:

Hello,

My name is Nanea Lo and I am a lifelong resident of Hawai'i on O'ahu. I am writing in because I fully support this bill.

me ke aloha 'Ä• ina,

Nanea Lo

SB-2322

Submitted on: 2/6/2020 7:40:18 AM

Testimony for GVO on 2/6/2020 3:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sidney Lynch	Testifying for Protect Our Ala Wai Watersheds	Support	No

Comments:

Protect Our Ala Wai Watersheds

Sidney Lynch

President

sjikenjoinc@hawaii.rr.com

841-8282

Testimony: In Support of SB2322

Feb. 6, 2020

The authority and capability to obtain funds for state and city projects for Hawaii must rest solely with the Hawaii State Legislature. Neither the governor, nor any one person or entity, should have an avenue to circumvent the legislature to obtain funding. Decisions regarding financial issues need to be made under public scrutiny and this is accomplished thru the democratically elected legislative process.

If the kind of loopholes such as the certificates of participation are allowed to continue, then there should be caps on the amount of funding accessible thru that process. During the September 2019 city council meeting regarding resolution 19-182, it was astounding to learn the governor could access \$125 million dollars for a project without legislative approval. The funds for this very project had already been turned down by the 2019 legislature. The request was for \$125 million but it could well have been for \$500 million or any other amount.

Once these COPS were issued, the legislature would have no choice but to fund them in the next legislative session as defaulting would not be a possibility due to the threat to the state's good bond rating. In fact, this process is not only a circumvention of the legislative process, it is form of blackmail of the legislature.

Our group fully supports SB23222 and thank the legislators who sponsored the bill.

Sidney Lynch

SB-2322

Submitted on: 2/6/2020 7:41:43 AM

Testimony for GVO on 2/6/2020 3:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Drew T Matsumoto	Individual	Support	No

Comments:

I support limiting COPS to 10 million. Any amount above this should be approved thru the legislature

Drew Matsumoto

SB-2322

Submitted on: 2/6/2020 10:00:35 AM

Testimony for GVO on 2/6/2020 3:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Winona T Holmes	Individual	Support	No

Comments:

My name is Nona Holmes and I wholeheartedly support bill SB2322. As a member at large of the Protect Our Ala Wai Watersheds group, I witnessed first hand what COPS (Certificates of Participation) were and how they would be used to fund the state's share of the \$125 million requested by Governor Ige. This was after the legislature had turned down his request for funding needed for the Ala Wai Flood Risk Management Project. Yet, he was trying to circumvent around the Legislature when this proposal was rejected. There should also be a cap/limit as to how much monies are being requested through COPS. This process should be very transparent to all legislature as well the people.

Thank you for allowing me to voice my opinion. Please, we need this bill to be passed.

Mahalo,

Nona Holmes