

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

ROBERT YU
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)

**TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS
ON
SENATE BILL NO. 2492**

**January 28, 2020
2:45 P.M.
Room 225**

RELATING TO MANAGEMENT OF FINANCING AGREEMENTS.

The Department offers the following comments on Senate Bill No. 2492 which amends Section 37D-2(a), HRS, to require the appropriation of funds before departments may enter into financing agreements. This bill will take away the State's flexibility by reducing the financing options available to the State for the acquisition of real or personal property. For example, the bill may affect future transactions such as those that were carried out by the Department of Transportation and the Department of Accounting and General Services to finance energy saving cost measures. Chapter 37D, HRS was also utilized by the Hawaii Criminal Justice Data Center to finance upgrades to their automated Fingerprint Identification System. Such financings may also be affected in the future.

The Legislature could also explore making financing agreements subject to the approval of the Legislature rather than first requiring an appropriation.

Thank you for your consideration of our comments.

TESTIMONY REGARDING SB2492

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

I write in support of SB2492. This bill requires that any financing agreement under Chapter 37D cannot be entered into unless a prior legislative appropriation has been made to fund the agreement.

I am an officer in an organization, Protect Our Ala Wai Watersheds, which will 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)). 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 certificates of participation 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.

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 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. The Legislature must take back control of the power given to it by the State Constitution.
2. The Legislature is the proper vehicle to consider 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-2492

Submitted on: 1/25/2020 8:20:42 AM

Testimony for GVO on 1/28/2020 2:45:00 PM

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

Comments:

Hello,

My name is Nanea Lo and I come from Papakāleia, O'ahu. I am a graduate student at the University of Hawai'i at Mānoa in the Department of Urban and Regional Planning. I am writing in to say I STRONGLY SUPPORT this bill. I believe that the Legislature should not give up the power of the purse strings, which has been given to it by the State Constitution. It is undemocratic it is that the Governor can decide to spend \$125 million without a public hearing. This is a harmful Project, as currently planned, would be and that you are outraged that the Gov can circumvent the Legislature.

Please support this bill.

Me ke aloha 'Āina,

Nanea LI

SB-2492

Submitted on: 1/25/2020 1:18:29 PM

Testimony for GVO on 1/28/2020 2:45:00 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 SB2492

January 25, 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 SB2492 and thank the legislators who sponsored the bill.

Mahalo,

Sidney Lynch

SB-2492

Submitted on: 1/26/2020 7:59:09 AM

Testimony for GVO on 1/28/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Teri L Skillman	Individual	Support	No

Comments:

Aloha,

I am writing in SUPPORT of this finance Bill. The governor should not be allowed to request funds to support a project that was rejected by the legislature. Decisions to request large sums of funding should be reviewed and approved by the Legislature prior to signing an agreement. It is very scary that this level of public financial indebtedness is currently accessible to the governor without any oversight or restriction.

The State Legislature needs to retain its power of approval as given by our Constitution.

Mahalo,

Teri Skillman

SB-2492

Submitted on: 1/26/2020 2:16:07 PM

Testimony for GVO on 1/28/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Mitsuda	Individual	Support	No

Comments:

The legislature should first approve funds before the COPS process can be started. The governor should not have unfettered financial power in approving large projects. The public -- the voters and residents of the state -- will be responsible for paying the bill, therefore our elected representatives should weigh in on these major decisions.

SB-2492

Submitted on: 1/26/2020 4:39:55 PM

Testimony for GVO on 1/28/2020 2:45:00 PM

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

Comments:

I strongly support this bill.

There should be no means of appropriating money without having it first approved by the legislative process. Plug this hole!

January 26, 2020

My name is Nona Holmes and I wholeheartedly support bill SB2492. As a member at large of the Protect Our Ala Wai Watersheds group, I got to witness this first hand what COPS (Certificates of Participation) were and how they would be used to fund the state's share of \$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. Don't you think the people of Hawaii deserve to know that their governor was trying to circumvent or do an end run around the Legislature when he didn't get his way. I was also very surprised to how often or infrequently COPS were used prior to this as well as the amounts to be funded. It is very important that the Legislature be the ones to appropriate state funds. As a 4th generation kamaaina, its saddens me that certain key elected officials feel that they can bypass or ignore the process of proper protocol when getting legislation passed as well as keeping their constituents aware and involved in what is happening with community issues.

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

Mahalo,

Nona Holmes

SB-2492

Submitted on: 1/26/2020 8:57:41 PM

Testimony for GVO on 1/28/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
andrea charuk	Testifying for Protect Our Ala Wai Watershed	Support	No

Comments:

I am in support of this bill because of Governor Ige's heinous and injurious actions in attempting to circumvent the democratic process in 2019. When the Legislature turned down the Governor's request for \$125 million for the Ala Wai Flood Risk Management Project, he sought an alternative means of financing the Project by issuing certificate of participation (COPS). Our group's successful lawsuit prevented this approach from working. We don't think the governor should be able to do makesuch a drastic unilateral decision, especially on a project as openly and widely opposed and imbedded in controversy as the Ala Wai flood mitigation project.

The level of bureaucratic momentum that steam rolled community engagement was unacceptable. Many concerned citizens as well as experts in the fields of hydrology, biology, ecology, water quality, and more came forward to offer feedback for revision and concern over certain project features and were continually placated being told, "That is outside the scope of this project" or worse, flat out dismissed by members of the Army Corps AND members of the government tasked with understanding the impacts of this project. We are not opposed to taking necessary measures to prepare for flooding disasters in our changing climate, we ARE however opposed to poorly designed projects that double down on over a century of poor, myopic, human economic centric, reactionary storm water management that is destroying our precious life giving waters and eventually all inhabitants who depend on it. And still the Governor put his support behind the project and found a loophole to bully it through. Had we not been attached to savvy folks in the know of how these project processes work, we would be stuck dealing with the project having been pushed through. I should not need 40 hrs of free time per week and an advanced law degree to exercise my rights as a citizen to oppose projects that threaten our home. If the governor is continually allowed to act in this manner, we will continue to see the voice and will of the people (TAX PAYERS!) be sold to the highest bidder.

SB-2492

Submitted on: 1/26/2020 9:56:35 PM

Testimony for GVO on 1/28/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Blaine De Ramos	Individual	Support	No

Comments:

I support SB2492

SB-2492

Submitted on: 1/27/2020 12:47:30 AM

Testimony for GVO on 1/28/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Matthew Villanueva	Individual	Support	No

Comments:

Aloha,

I, Matthew Villanueva, a registered voter and permanent resident of Hawaii Pae 'aina do hereby write in support of this bill SB2492. I am hoping this measure would put a greater level of transparency, and accountability on the plans of the governor or other state agencies. Especially, one's that the people of Hawaii oppose. There's too much corruption and leverage in favor of unfavorably projects without a law governing the appropriation of funds to the agendas of public/state officials/departments.

Mahalo for accepting my testimony

Matthew Villanueva

SB-2492

Submitted on: 1/27/2020 7:26:17 AM

Testimony for GVO on 1/28/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Maiki Ann Mafi	Individual	Support	No

Comments:

Do what is right for the land and people. There should be a process to ensure that money is being used PONO!

SB-2492

Submitted on: 1/27/2020 11:07:42 AM

Testimony for GVO on 1/28/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Kimberly	Testifying for EMCC Hawaii	Support	No

Comments:

Aloha,

I am writing on behalf of EMCC Hawaii in SUPPORT of Bill SB2492.

The Ala Wai Flood Risk Management Project is a project that is NOT supported by the people. It is a harmful project to our streams and it is ridiculous that other less harmful means of flood mitigation were not more seriously considered. I am unraged that the Governor can circumvent the legislature. Not only that, it is extremely undemocratic that the Governor can decide to spend such a large sum of money (\$125 million) without a public hearing.

SB-2492

Submitted on: 1/27/2020 12:21:33 PM

Testimony for GVO on 1/28/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Stephanie Manera	Individual	Support	No

Comments:

SB-2492

Submitted on: 1/27/2020 1:14:29 PM

Testimony for GVO on 1/28/2020 2:45:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Dave Raney	Individual	Support	No

Comments:

My name is Dave Raney, testifying in strong support for SB2492 Relating to Management of Financing Agreements.

This bill requires that a legislative appropriation be obtained as a condition of any financing agreement obligating the state. The need for such a provision arose from the attempt of the Governor to financially obligate the state to provide its portion of funding for the Ala Wai Canal Flood Control project proposed by the U.S. Army Corps of Engineers--despite the 2019 state Legislature specifically declining to fund that project.

Thank you for the opportunity to present my views on this important bill.

SB-2492

Submitted on: 1/27/2020 1:23:44 PM

Testimony for GVO on 1/28/2020 2:45:00 PM

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

Comments:

My initial interest in this bill is specific to the US Army Corps of Engineers (USACE) Ala Wai Flood Mitigation Plan. It bears to mention that this plan was poorly executed and vetted by the USACE to the public which it effects on the whole. The plan was halted when a local group, Protect Our Ala Wai Watersheds, won an injunction in State Court, halting the project when Governor Caldwell's administration attempted to circumvent the legislature by funding \$125 million via COPS before an valid Environmental Impact Study (EIS) had even been completed. This was attempted because the legislature did not approve funding for the project in regular session and the USACE was pressuring the state to sign participating partner agreement (PPA) to save the funding. All of this might have been tolerable if the plan was a good one which it is not.

Honolulu's administrative branch acting without the intended fiscal governance of the legislative body must not be allowed if we are ever to be able to maintain a hopeful outlook on Honolulu's future for ourselves and our families.