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EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

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

WRITTEN ONLY

TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON TRANSPORTATION
ON
HOUSE BILL NO. 688

February 12, 2021
10:00 A.M.
Via Videoconference

RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST KEAHOLE
HOTEL & SUITES LLC.

The Department of Budget and Finance offers the following comments on House Bill No. 688 which authorizes the issuance of Special Purpose Revenue Bonds (SPRB) to assist Keahole Hotel & Suites LLC, a Hawaii company, with the planning, designing, constructing, and equipping facilities for a hotel at the Ellison Onizuka Kona International Airport at Keahole pursuant to Part V, Chapter 39A, Hawaii Revised Statutes.

The Department has a technical comment on this bill. Federal tax law requires, among other things, that hotels financed with tax-exempt bond proceeds must be governmentally owned and operated by a governmental unit and/or private entity (subject to a qualified management contract), and available for use by the general public for short term stays.

The Department would like to inform the Legislature and prospective SPRB parties that should the legislation be approved, approval of the SPRB issuance and conduit loan will require further review of the financing proposal to ensure compliance

with all federal, state and credit underwriting requirements. For additional information, please consult our FAQ located at the following link: <http://budget.hawaii.gov/wp-content/uploads/2012/11/SPRB-FAQ.pdf>.

Thank you for your consideration of our comments.



**WRITTEN TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2021**

ON THE FOLLOWING MEASURE:

H.B. NO. 688, RELATING TO SPECIAL PURPOSE REVENUE BONDS TO ASSIST KEAHOLE HOTEL & SUITES LLC.

BEFORE THE:

HOUSE COMMITTEE ON TRANSPORTATION

DATE: Friday, February 12, 2021 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 423, Via Videoconference

TESTIFIER(S): **WRITTEN TESTIMONY ONLY**
(For more information, contact Randall S. Nishiyama,
Deputy Attorney General, at 586-0618)

Chair Aquino and Members of the Committee:

The Department of the Attorney General provides the following comments regarding this bill.

This bill authorizes the issuance of \$50,000,000 in special purpose revenue bonds pursuant to part V (industrial enterprises) of chapter 39A, Hawaii Revised Statutes, to assist Keahole Hotel & Suites LLC, for planning, designing, constructing, and equipping facilities for a hotel at the Ellison Onizuka Kona International Airport at Keahole.

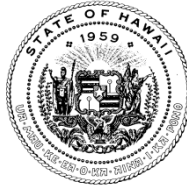
We note that special purpose revenue bonds are generally issued on a federal tax-exempt basis and state tax-exempt basis.

The State's Public Finance Bond Counsel, Craig Scully, Esq., Katten Muchin Rosenman LLP, notes that hotels can be financed on a tax-exempt basis only if they are governmentally owned and operated by a governmental unit for use by the general public for short-term stays.

In this instance, it appears that the subject hotel will be privately owned and operated. Consequently, it appears that the subject hotel cannot be financed on a federal tax-exempt basis, but can be financed on a state tax-exempt basis. Thus, if the Legislature authorizes the issuance of these special purpose revenue bonds, such bonds will be taxable for federal purposes, but will be tax-exempt for State purposes.

Thank you for the opportunity to present this testimony.

DAVID Y. IGE
GOVERNOR



TESTIMONY BY:

JADE T. BUTAY
DIRECTOR

Deputy Directors
LYNN A.S. ARAKI-REGAN
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STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
869 PUNCHBOWL STREET
HONOLULU, HAWAII 96813-5097

February 12, 2021
10:00 a.m.
State Capitol, Room 423
Via Videoconference

H.B. NO. 688
RELATING TO SPECIAL PURPOSE REVENUE BONDS
TO ASSIST KEAHOLE HOTEL & SUITES LLC.

House Committee on Transportation

The Department of Transportation (DOT) **supports** the intent of H.B. 688. This bill authorizes the issuance of special purpose revenue bonds by Department of Budget and Finance, the proceeds of which will be applied to the planning, design, constructing and equipping of facilities for a hotel at the Ellison Onizuka Kona International Airport at Keahole.

DOT appreciates that the issuance of these special purpose revenue bonds will be in the public interest and for the public health, safety and general welfare of citizens of the State.

However, the department respectfully offers the following comments for the Committee's consideration:

- 1.) The Bill makes reference to the proposed special purpose revenue bonds being exempt from federal income taxation. Such an exemption would require the project to be owned by a governmental entity or a 501(c)3 non-profit corporation; although the project could be operated by a for-profit entity if the terms of such operation comply with IRS requirements.
- 2.) Airports Division is subject to both Federal Aviation Administration and existing contractual restrictions regarding how it uses airport revenues. Airport revenues would presumably not be available to support special purpose revenue bonds of this nature.
- 3.) Airports Division is subject to contractual restrictions including restrictions applicable to: (a) the incurrence or guaranty of new indebtedness; (b) the acquisition, disposition and maintenance of property; and (c) a capital budgeting process involving the approval of signatory airlines.

- 4.) Airports Division is subject to statutory and constitutional restrictions, including, but not limited to, those relating to expenditure of public funds, procurement and leases of governmental land.

The special purpose revenue bonds must 'stand-alone' on project revenues and should not be supported in any way by airport revenues or other restricted moneys of the Airports Division. Further, if it is determined that a governmental owner is necessary for the tax-exemption of the special purpose revenue bonds, Airports Division believes that it would be a poor fit to serve in such capacity.

Thank you for the opportunity to provide testimony.

MASON INDUSTRIES, LLC

**THE HONORABLE HENRY J.C. AQUINO, CHAIR
THE HONORABLE GREGGOR ILAGAN, VICE CHAIR
AND COMMITTEE MEMBERS
HOUSE COMMITTEE ON TRANSPORTATION**

**31st Hawaii State Legislature
Regular Session of 2021
State of Hawai'i**

**RE: H.B. 688; RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS
TO ASSIST KEAHOLE HOTEL & SUITES LLC**

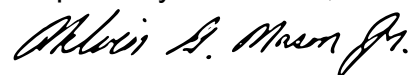
Chair Henry J.C. Aquino, Vice Chair Greggor Ilagan, and members of the House Committee on Finance, on behalf of MASON INDUSTRIES, LLC, I submit the following testimony in support of House Bill 688 regarding KEAHOLE HOTEL & SUITES LLC.

House Bill 688 authorizes the issuance of special purpose revenue bonds to assist KEAHOLE HOTEL & SUITES LLC for planning, designing, constructing, and equipping facilities for a hotel at the Ellison Onizuka Kona International Airport at Keahole as this project will generate revenue and jobs for the State of Hawaii by the creation of a business hotel at the Kona Airport. The project will generate more jobs in areas such as, but not limited to, education, construction, law, finance, food and beverage, accounting, engineering, landscaping, maintenance, and energy. As flights get cancelled especially in this pandemic time its most important with having a Hotel at the Ellison Onizuka Kona International Airport.

In addition Keahole Hotel & Suites will generate taxes, room sales, fees, and lease rents, our project is expected to generate substantial economic growth for the State and the Kona region with increased revenue through the creation of more jobs and this development and operations will generate multi-millions of dollars in revenue for the Department of Transportation Airports Division and State of Hawaii. This special purpose revenue bond will definitely help with economic development, specifically for other businesses in the area as well.

For the reasons stated above, MASON INDUSTRIES, LLC supports House Bill 688. Thank you for the opportunity to testify on this matter.

Respectfully Submitted,



Melvin G. Mason Jr. CEO / President