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State Capitol, Room 446  
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## Written Comments

### **SB2170**

### **RELATING TO TOURISM GOVERNANCE**

Charlotte A. Carter-Yamauchi, Director  
Legislative Reference Bureau

Presented to the Senate Committees on Energy, Economic Development, and Tourism and  
Government Operations

Wednesday, February 9, 2022, 3:00 p.m.  
Conference Room 224  
Via Videoconference

Chairs Wakai and Moriwaki and Members of the Committees:

Good afternoon, Chairs Wakai and Moriwaki and members of the Committees. My name is Charlotte Carter-Yamauchi, and I am the Director of the Legislative Reference Bureau. Thank you for providing the opportunity to submit written comments on S.B. No. 2170, Relating to Tourism Governance.

The purpose of this measure is to require the Bureau to conduct a two-year study that identifies and analyzes alternative tourism governance systems.

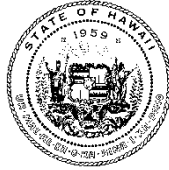
More specifically, the measure requires the Bureau to conduct a study that identifies and analyzes actual and proposed alternative tourism governance systems used or proposed to be used in locations that are reasonably similar to Hawaii, and appropriates an unspecified sum for this purpose.

The measure further requires the Bureau to publish a draft report, including a proposed summary for public review purposes, no later than October 1, 2024, and to use the summary as a basis for an extensive statewide publicity and stakeholder input program lasting at least two months, including both electronic and in-person public meetings if feasible, as well as surveys of the general community, the business community, and

interviews with key legislators, chief executives, and administrative department heads at both state and county levels of government. The measure then requires the Bureau to submit a final report of potential options for the Legislature for consideration no later than twenty days prior to the convening of the Regular Session of 2025. Finally, the measure allows the Bureau to contract the services of a consultant or consultants to perform all or some of the duties required with the funds appropriated in measure. Any procurement of services pursuant to the measure would be exempt from Chapter 103D, Hawaii Revised Statutes.

The Bureau takes no position on the merits of this measure but submits the following comments for your consideration. Provided that the scope of the measure is not amended and that adequate funding is provided for the contracting of services, the Bureau believes that the services requested under the measure would be manageable. The foregoing is subject to the caveat that the Bureau's interim workload is not adversely impacted by too many additional responsibilities, such as conducting additional studies, writing or finalizing other reports, drafting legislation, or any combination of these for the Legislature or for other state agencies, task forces, or working groups that may be requested or required by other legislative measures.

Thank you again for the opportunity to submit written comments.



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TESTIMONY  
OF  
BONNIE KAHAKUI, ACTING ADMINISTRATOR  
STATE PROCUREMENT OFFICE  
  
TO THE SENATE COMMITTEES  
ON  
ENERGY, ECONOMIC DEVELOPMENT AND TOURISM  
AND  
COMMITTEE ON GOVERNMENT OPERATIONS

February 9, 2022, 3:00 PM

SENATE BILL 2170  
RELATING TO TOURISM GOVERNANCE

Chairs Wakai, Chair Moriwaki, Vice Chair Misalucha, Vice Chair Dela Cruz, and members of the committees, thank you for the opportunity to submit testimony on SB2170. The State Procurement Office (SPO) opposes the exemption language on page 11, SECTION 5, lines 11-16 set forth below.

“The legislative reference bureau may contract the services of a consultant or consultants to perform all or some of the duties required in this Act with the funds appropriated in section 4 of this Act. Any procurement of services pursuant to this Act shall be exempt from chapter 103D, Hawaii Revised Statutes.”

The SPO objects to the procurement exemption and testifies that consultant services for this program should be competitively procured OR use the SPO Vendor List 19-19 NASPO ValuePoint Procurement of Acquisition Support Services (PASS).

The NASPO ValuePoint Cooperative Purchasing Organization is a multi-state contracting consortium of state governments, including local governments, of which the State of Hawaii is a member. The NASPO ValuePoint Purchasing Organization seeks to achieve price discounts by combining the requirements of multi-state governmental agencies, and cost-effective and efficient acquisition of quality products and services. The State of Hawaii is the current lead agency and contract administrator for the NASPO ValuePoint Procurement of Acquisition Support Services (PASS) contract. A request for competitive sealed proposals was issued on behalf of NASPO ValuePoint Cooperative Purchasing Organization, LLC and contracts were awarded to 16 qualified Contractors. The State of Hawaii has fully executed contracts with 12 Contractors, who are named as authorized Contractors in SPO Vendor List Contract No. 19-19. The following 13 categories are included in the contract for acquisition support services: Specifications/Scope of Work Review, Procurement Strategy/Acquisition Strategy Plan,

Independent Government Cost Estimate, Market Research, Cost & Pricing Analysis, Solicitation Review or Preparation, Source Selection, Cost Realism Analysis, Contract Development/Contract Formation, Contract Management, Vendor Performance Evaluation Program, Procurement Policy, and Category Management. The PASS contract obtained consultant services for the Past Performance Database that was signed by the Governor in Act 188, SLH 2021, (HB526).

Chapter 103D, Hawaii Revised Statutes, the Hawaii Public Procurement Code (code), is the single source of public procurement policy to be applied equally and uniformly, while providing fairness, open competition, a level playing field, government disclosure and transparency in the procurement and contracting process vital to good government.

Public procurement's primary objective is to provide everyone equal opportunity to compete for government contracts, to prevent favoritism, collusion, or fraud in awarding of contracts. To legislate that any one entity should be exempt from compliance with both HRS chapter 103D and 103F conveys a sense of disproportionate equality in the law's application.

Exemptions to the code mean that all procurements made with taxpayer monies will not have the same oversight, accountability and transparency requirements mandated by those procurements processes provided in the code. It means that there is no requirement for due diligence, proper planning or consideration of protections for the state in contract terms and conditions, nor are there any set requirements to conduct cost and price analysis and market research or post-award contract management. As such, Agencies can choose whether to compete any procurement or go directly to one contractor. As a result, leveraging economies of scale and cost savings efficiencies found in the consistent application of the procurement code are lost. It also means Agencies are not required to adhere to the code's procurement integrity laws.

The National Association of State Procurement Officials state: "Businesses suffer when there is inconsistency in procurement laws and regulations. Complex, arcane procurement rules of numerous jurisdictions discourage competition by raising the costs to businesses to understand and comply with these different rules. Higher costs are recovered through the prices offered by a smaller pool of competitors, resulting in unnecessarily inflated costs to state and local governments."

When public bodies, are removed from the state's procurement code it results in the harm described above. As these entities create their own procurement rules, businesses are forced to track their various practices. Moreover, a public body often can no longer achieve the benefits of aggregation by using another public body's contract because different state laws and regulations may apply to the various public bodies making compliance more difficult.

Each year new procurement laws are applied to state agencies causing state agency contracts to become more complex and costly, while other public bodies, such as agencies with strong legislative influence, are exempted. Relieving some public bodies from some laws by exempting or excluding them from compliance with a common set of legal requirements creates an imbalance wherein the competitive environment becomes different among the various jurisdictions and the entire procurement process becomes less efficient and costlier for the state and vendors.

Thank you.

DAVID Y. IGE  
GOVERNOR



CRAIG K. HIRAI  
DIRECTOR

GLORIA CHANG  
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM  
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND  
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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 SENATE COMMITTEES ON ENERGY, ECONOMIC DEVELOPMENT, AND  
TOURISM AND GOVERNMENT OPERATIONS  
ON  
SENATE BILL NO. 2170

**February 9, 2022**  
**3:00 p.m.**  
**Room 224 and Videoconference**

RELATING TO TOURISM GOVERNANCE

The Department of Budget and Finance (B&F) offers comments on this bill.

Senate Bill No. 2170 makes an unspecified general fund appropriation in FY 23 to the Legislative Reference Bureau to conduct a study that identifies and analyzes alternative tourism governance systems and includes input from certain stakeholder groups. A report is required to be submitted 20 days prior to the convening of the 2025 Regular Session.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and

- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.



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**David Y. Ige**  
*Governor*

**John De Fries**  
*President and Chief Executive Officer*

Statement of  
**JOHN DE FRIES**

Hawai'i Tourism Authority  
before the  
**COMMITTEE ON ENERGY, ECONOMIC DEVELOPMENT, AND TOURISM**

**AND**

**COMMITTEE ON GOVERNMENT OPERATIONS**

February 9, 2022  
3:00 p.m.  
State Capitol  
via videoconference

In consideration of  
**SENATE BILL NO. 2170**  
**RELATING TO TOURISM GOVERNANCE**

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Aloha Chair Wakai, Vice Chair Misalucha, Chair Moriwaki, Vice Chair Dela Cruz, and members of the Committee on Energy, Economic Development, and Tourism and the Committee on Government Operations.

The Hawai'i Tourism Authority appreciates the opportunity to testify in **support** of SB2170, requiring the Legislative Reference Bureau to conduct a study that identifies and analyzes alternative tourism governance systems.

We support the intent of this measure to study tourism governance systems in locations reasonably similar to Hawai'i, to learn from the successes and lessons learned in other communities and apply that learning to our collective efforts to Mālama Ku'u Home (care for our beloved home). The Hawai'i Tourism Authority also stands ready to assist the Legislative Reference Bureau and its consultant(s) as needed in the course of this study.

We appreciate this opportunity to **support** SB2170. Mahalo.

**Testimony to the Thirty-First Legislature, 2022 Regular Session  
Senate Committee on Energy, Economic Development, and Tourism  
Senate Committee on Government Operations**

By

**Colin D. Moore, Ph.D.**

Director, Public Policy Center, University of Hawai'i at Mānoa

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**Senate Bill No. 2170, Relating to Tourism Governance**

**Position: STRONG SUPPORT**

Aloha Chair Wakai, Chair Moriwaki, and Committee Members:

I am Colin Moore, Director of the Public Policy Center at the University of Hawai'i at Mānoa.

I strongly support SB 2170. It is consistent with recent calls by several university faculty and tourism experts for a study to examine emerging tourism governance systems around the world and to better understand what might work here in Hawai'i.

We must do all we can to make sure that Hawai'i tourism maintains the proper balance between generating revenue and contributing to as few social and environmental problems as possible. But the strong resident objections we've heard in recent years tells us that such balance has not yet been achieved. The UH Public Policy Center's 2021 survey showed that about 52% of respondents would prefer limiting the number of visitors, with even stronger support for this policy on Neighbor Islands and among Native Hawaiians. In recent years, the Hawai'i Tourism Authority's (HTA) Resident Sentiment Survey registered a dramatic increase in the number of people who believe that tourism brings more problems than benefits.

The HTA and some county agencies are making serious efforts to address these concerns. **In my view, there is no need to choose between taking immediate actions under our current system and studying how we can improve that system. We can and must do both.**

The State now spends tens of millions of dollars each year for a mix of marketing, visitor education, and the key emerging idea of Destination Management. Dedicating a small amount of that money to exploring what's working elsewhere and what we might do here in Hawai'i would be a wise investment.

HTA is filled with experienced and dedicated people – we should not lightly consider further changes to that organization without the benefit of careful study.



But HTA has some challenges. First, its enabling legislation, HRS201-B, focuses on promotion and growth, and it doesn't provide much statutory authority to achieve Destination Management goals on its own.

Second, HTA has a public image problem. Many residents hold the HTA responsible for what some are calling "overtourism." Other residents are likely unaware or skeptical about its new direction. Yet the public also believes tourism needs substantial State management and oversight. The 2021 Public Policy Center study found that 60% of respondents believed that the State should "control or regulate" tourism more than other businesses in Hawai'i.

**If the Aloha Spirit toward visitors is to be protected, public faith in the legitimacy of our tourism management system must be restored. This study will help us understand how to do that.**

SB 2170 calls for analysis of systems developed or proposed elsewhere. It also asks for the development of three possible systems for consideration by the 2025 Legislature.

I think at least one such system might be a centralized destination management organization like HTA. Perhaps another would be a coordinating council among various State and county agencies. The possibility of a permanent advisory council with expanded input and more diversity than the current HTA Board would likely be a feature of one or more systems.

This study could also position Hawai'i to become a global leader in destination management. To my knowledge, there has been no comprehensive study in the academic literature that evaluates all possible governance options for a major tourism market like Hawai'i.

Finally, SB 2170 is necessary because of the complex local context for any proposed system of tourism governance.

As you know, Hawai'i must operate within the constraints of the US Constitution, which means that some options will be unavailable to us. We need to keep revenues flowing while better accounting for costs that may be unique to us. Hawai'i also has a particular socio-cultural and political history that must be considered in any destination management plan. Finally, we live in an isolated archipelago where residents and visitors compete for every bit of urban, recreational, coastal, and wilderness *'āina*.

No academic study that focuses on destinations in Europe, Asia, or the mainland United States is going to give us both the global perspective and an understanding of the unique challenges we face here in Hawai'i. The proposed study would.

**For these reasons, I urge you to support SB 2170. It will provide us with the data we need to ensure that Hawai'i's tourism industry works for visitors and residents in the decades to come.**

Thank you for the opportunity to provide testimony.

Aloha Chair Wakai, Vice Chair Misalucha, and committee members.

I am Frank Haas and I am testifying today in strong support of HB 1785/SB 2170 as a private citizen.

Though I am speaking as a private citizen, I have been closely involved with tourism issues over the years, previously serving as Director of Marketing for the Hawai'i Tourism Authority; as a consultant and contributor to three of the HTA strategic plans; as an instructor and administrator at the University of Hawai'i School of Travel Industry Management and Kapi'olani Community College; as a consultant on tourism projects internationally; and as an author of papers and a contributor to publications on sustainable and "smart" tourism.

My support of this bill should not be construed as an indictment of the Hawai'i Tourism Authority. The most recent five-year strategic plan adopted in 2020 clearly calls for rebalancing its activities and resources to increase its focus on destination management. The Destination Management Action Plans, or DMAPs, which flowed from the strategic plan, used community input to identify specific issues to be addressed on each island. Instead, my support for this bill is based on my assessment that to truly address the challenges of tourism and to make it sustainable and regenerative in the long run requires us to consider how to create the best structure and governance model for Hawai'i tourism.

Tourism is by its nature complex. It involves the public sector and private sector. Administration and oversight crosses jurisdictional boundaries between federal, state, and county agencies. Communities are directly impacted by tourism activities. It is now and will be for the foreseeable future a major contributor to Hawai'i's economy. Funding is required to manage tourism, mitigate impacts, and to create a global brand that attracts our preferred visitors. As a result, to effectively manage tourism Hawai'i requires, as the bill proposes, a governance system that enables coordination across these agencies, jurisdictions, and stakeholders and provides long term planning, impact mitigation, and effective marketing.

Hawai'i has not been alone in facing the challenges of what has been called "overtourism," and many other destinations are more advanced than Hawai'i in developing new organizational structures to deal with tourism's complexity, some of which are noted in the proposed bill. In my own experience, I have seen the creativity of many other destinations in reassessing their governance structure to better manage destinations:

- I participated in a tourism policy forum convened by the Harvard Extension School, involving more than thirty participants from around the world and which included a headline finding that "Effective Governance Requires New Forms of Organization."
- I have contributed a case study for the book "Overtourism: Lessons for a Better Future," published by the Center for Responsible Tourism (CREST), which includes case studies from other destinations responding to the challenges of overtourism.
- In working on other tourism projects, I've discovered dozens of other management plans with issues and structural concerns similar to Hawai'i's.
- There are many other examples of destinations around the world rethinking their traditional governance structures to address the new realities of tourism.

Hawai'i, its counties, and the HTA all have good intentions when it comes to re-orienting and re-focusing tourism. What this bill proposes, though, is assessing how to restructure it as well: to make progress more coordinated, more effective, and more sustainable.

We have had many plans with good intentions in the past that have not resulted in sustained benefits.

To cite just a few:

- In 1991, when Hawai'i welcomed about 6.5 million visitors, the Waihee administration adopted a Tourism Functional Plan that found "... Tourism growth has renewed attention to environmental issues ... an increased focus on cultural tourism and heritage reservation ... [and] also raised questions regarding impacts on the community."
- In 1998, facing a different set of tourism challenges, Governor Cayetano convened an Economic Recovery Task Force, which, among other recommendations, proposed the establishment of a Hawai'i Tourism Authority.
- In 2005, HTA adopted a strategic plan covering nine strategic initiatives. Subsequently, HTA pulled back from this expansive approach because it didn't have authority over other agencies to effectively implement the plan.
- In 2006, the legislature commissioned a large-scale project, "Planning for Sustainable Tourism," to bring a cross section of stakeholders together to develop a common vision for tourism's future.

These well intended plans and initiatives proved ineffective in preventing the impacts that we've seen in recent years. What's been missing, I believe, is a governing structure that can effectively turn these good intentions into real and long-lasting progress toward destination management.

The legislature may certainly have concerns about the applicability of other governance models to our unique circumstances in Hawai'i. However, based on what I've seen, there are many different models for funding, managing access, involving community, developing long range plans, and other essential elements of good governance to choose from and learn from. With all of the challenges we face, I believe making an investment in examining other governance models as proposed by this bill would be a wise investment, indeed.

Thank you for the opportunity to testify.