

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
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)

WRITTEN ONLY

TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 2712

February 2, 2022
10:00 A.M.
Via Videoconference

RELATING TO CERTIFICATES OF PARTICIPATION.

The Department of Budget and Finance (the "Department") offers the following comment on Senate Bill No. 2712 which prohibits the Department from issuing or approving 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.

LATE

TESTIMONY IN SUPPORT OF SB2712

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Senate Ways and Means Committee:

I write in support of SB2712. This bill prevents the State agencies 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.

In 2019 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.

In December of 2020, federal funding for the Project was finally pulled. The Army Corps has embarked on yet another phase of searching for a less expensive alternative. The current Mayor has continued to express his eagerness to have a new project approved. The timetable of this new phase has a draft report being circulated in the fall of this year (2022). A federal appropriation could be made at any time. Because the Mayor is eager to sign on the dotted line, a project could be approved before the State Legislature appropriates money for it as long as the State can fund the local sponsor's portion of the project through a sale of COPs. Only this bill can prevent that.

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

1. The Legislature, especially the Ways and Means and Finance Committees, need 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

LATE

SB-2712

Submitted on: 2/1/2022 10:24:02 AM

Testimony for WAM on 2/2/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sidney Lynch	Individual	Support	No

Comments:

I strongly support this bill. There should be legislative oversight for expenditures on behalf of the government over certain amounts. This loophole needs to be closed.

LATE

SB-2712

Submitted on: 2/1/2022 11:08:18 AM

Testimony for WAM on 2/2/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sean W. Scanlan, Ph.D.	Individual	Support	No

Comments:

I support it. I don't want any circumventing of processes, especially with large amounts of taxpayer dollars.

LATE

SB-2712

Submitted on: 2/1/2022 11:34:55 AM

Testimony for WAM on 2/2/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Steve Holmes	Individual	Support	No

Comments:

I am in favor of this bill as it would help to control expenditures of valuable taxpayer resources before proper debate, consideration and required vetting is performed by the legislature.

LATE

SB-2712

Submitted on: 2/1/2022 11:43:39 AM

Testimony for WAM on 2/2/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
w kim messier	Individual	Support	No

Comments:

i support SB2712 sponsered by Senator Taniguchi.

LATE

SB-2712

Submitted on: 2/1/2022 11:44:25 AM

Testimony for WAM on 2/2/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dave Watase	Individual	Support	No

Comments:

Aloha Chair Dela Cruz and Senate Committee Members,

I support SB2712 because it corrects a loophole which allowed State Departments and Agencies from issuing Certificate of Participation (COPS) bonds without limitations to raise and disperse funds outside the scope and limits of approved budgets and zero Legislative oversight. The original intent of COPS was not to allow State Departments and Agencies to circumvent the Legislature on major projects and large expenditures that may not have been properly vetted or publicly engaged through the Legislative process. Additionally, COPS financially obligate the State of Hawaii to a financial commitment prior to Legislative approvals of that commitment. Failure for the State to after the fact approve the debt obligation in the future could expose the State to a default and affect the State's bond rating. I believe a limit of \$10 million for COPS preserves and protect the original intent for it's application.

Please support SB2712!

Mahalo, Dave Watase

LATE

SB-2712

Submitted on: 2/1/2022 11:51:12 AM

Testimony for WAM on 2/2/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Winona T Holmes	Individual	Support	No

Comments:

My name is Winona Holmes and I wholeheartedly support bill SB2712. As a member 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 towards the Ala Wai Flood Risk Management Project. There should be a cap/limit as to how much monies to be requested through COPS. This process should be very transparent to the legislature as well as the people.

We need this bill to be passed. Thank you for allowing me to voice my opinion.

Mahalo,

Winona Holmes

LATE

SB-2712

Submitted on: 2/1/2022 11:55:58 AM

Testimony for WAM on 2/2/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jordan H Wong	Individual	Support	No

Comments:

I support SB2712 because the Governon's office should not be solely in charge of financing large public works projects without the oversight of the legislature. The more checks and balances involved in making these financing decisions the better.

Thank for you for your consideration.

Respectfully submitted,

Jordan H. Wong

LATE

SB-2712

Submitted on: 2/1/2022 2:25:00 PM

Testimony for WAM on 2/2/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
diana tusher	Individual	Support	No

Comments:

Support adjusting Certificate of Participation procedures to avoid Counties circumventing State Legislature intentions and using taxpayer funds in ways the Legislature does not intend.

LATE

SB-2712

Submitted on: 2/1/2022 10:04:11 PM

Testimony for WAM on 2/2/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Bruce Lum	Individual	Support	No

Comments:

I believe that the purpose of SB-2712 is to ensure that Government will protect the interest of the people by assuring that any Certificate Of Participation that exceeds 10 million dollars will be subjected to Legislative oversight and authorization, without exception.

As a registered voter of Senate District 14/House District 33, I strongly support the passage of SB-2712.

Respectfully,

Bruce Lum

LATE

SB-2712

Submitted on: 2/1/2022 11:05:21 PM

Testimony for WAM on 2/2/2022 10:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sharlene Chun Lum	Individual	Support	No

Comments:

As a concerned taxpayer, who wants to see more fiscal accountability in the use of my tax dollars, I support SB2712 because it corrects a loophole that allowed State Departments and Agencies to issue Certificate of Participation (COPS) bonds without limitations to raise and disperse funds outside the scope and limits of approved budgets and zero Legislative oversight. SB2712 will limit the amount that can be used through this process to \$10 Million, still a sizable sum but nowhere near where the risk involved under the current rules.

In 2019, we saw how this power was abused in an agreement between Governor Ige and Mayor Caldwell after the legislative session ended, when \$125 Million in COPS bonds was promised to the Feds towards the then Ala Wai Watershed Project. Thankfully, the questionable project was forced to go to yet another review and the funds were not committed.

The current COPS process that allows State Departments and Agencies to improperly and recklessly financially obligate taxpayers in the State of Hawaii without Legislative approval must be revised to set a limit of \$10 million.

To achieve this, please pass SB2712.