

# OFFICE OF INFORMATION PRACTICES

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To: House Committee on Finance

From: Cheryl Kakazu Park, Director

Date: February 28, 2024, 10:00 a.m.  
State Capitol, Conference Room 308

Re: Testimony on H.B. No. 2806, H.D. 2  
Relating to Opioid Litigation Proceeds

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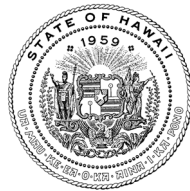
Thank you for the opportunity to submit testimony on this bill, which would, among other things, create a Hawaii Opioid Litigation Proceeds Council (Council). The Office of Information Practices (OIP) offers **comments** on a provision not applicable to other Sunshine Law boards and only applicable to this Council's members who attend meetings remotely.

The Council, as created by this bill, would meet the definition of a board subject to part I of chapter 92, the Sunshine Law. As such, its members may attend meetings remotely as authorized by the Sunshine Law. The law's remote meetings provision, section 92-3.7, HRS, allows members to attend a meeting held via an online meeting platform remotely, with at least a quorum of members required to be visible on-camera either at their private location or at the connected physical meeting location a board must provide for a remote meeting. Another provision, section 92-3.5(d), allows a member with a disability to attend even a fully in-person meeting via a remote connection in specified circumstances.

**Thus, the Council does not need the authorization at bill page 12, lines 9-11, to be able to hold remote meetings.** The provision does not conflict

with the Sunshine Law, since the Council would still need to follow the Sunshine Law's requirements for when and how members may attend remotely. **However, the provision adds a new restriction for only this Council's members** to attend remotely under the Sunshine Law: the bill would require the chair's approval for a remote attendee to be off-camera even when that member is not needed to meet the visible quorum requirement. **If this Committee does not wish to add this additional restriction, it can remove the remote attendance provision in this bill (at page 12 lines 9-11) without affecting the members' ability to attend meetings remotely as authorized by the Sunshine Law.**

Thank you for considering OIP's testimony.



JOSH GREEN, M.D.  
GOVERNOR

SYLVIA LUKE  
LIEUTENANT GOVERNOR

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

LUIS P. SALAVERIA  
DIRECTOR

SABRINA NASIR  
DEPUTY DIRECTOR

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

**WRITTEN ONLY**  
TESTIMONY BY LUIS P. SALAVERIA  
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE  
TO THE HOUSE COMMITTEE ON FINANCE  
ON  
HOUSE BILL NO. 2806, H.D. 2

**February 28, 2024**  
**10:00 a.m.**  
**Room 308 and Videoconference**

RELATING TO OPIOID LITIGATION PROCEEDS

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

House Bill (H.B.) No. 2806, H.D. 2, adds a new chapter to the HRS, entitled "Hawai'i Opioid Litigation Proceeds" to:

- Establish the Hawai'i Opioid Litigation Proceeds (HOLP) Special Fund (HOLPSF) to be administered by the HOLP Council (HOLPC).
- Establish the HOLPC administratively within the Department of Health (DOH) to oversee the Hawai'i Opioid Settlement Advisory Committee's (HOSAC) expenditure of all opioid litigation proceeds received by the State.
- Specifies the purposes for the expenditures from the HOLPSF in accordance with the Memorandum of Agreement between the State and local governments on proceeds relating to the settlement of opioid litigation.
- Require DOH to employ a full-time program director for the HOLPC and to provide resources and assist the program director.

- Require DOH to submit an annual report on the HOLPC's activities, including credits and expenditures of the HOLPSF.
- Appropriates an unspecified amount of special funds from the HOLPSF for FY 25 for drug policy and coordination and the establishment of 5.00 full-time equivalent positions.

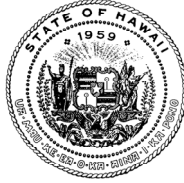
As a matter of general policy, B&F does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should:

- 1) serve a need as demonstrated by the purpose, scope of work, and an explanation why the program cannot be implemented successfully under the general fund appropriation process;
- 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue;
- 3) provide an appropriate means of financing for the program or activity; and
- 4) demonstrate the capacity to be financially self-sustaining. Regarding H.B. No. 2806, H.D. 2, it is difficult to determine whether the proposed special fund would be self-sustaining.

Additionally, it is unknown how much funds will be available in the HOLPSF for investments after disbursements to the counties, spending for substance use disorder abatement purposes, and administrative costs. Because of the short time frame, it is recommended that funds be kept in the treasury to earn interest and to avoid the additional costs and fees associated with the investment of funds through an investment manager.

Thank you for your consideration of our comments.

JOSH GREEN, M.D.  
GOVERNOR OF HAWAII  
KE KIA'AINA O KA MOKU'AINA 'O HAWAII



KENNETH S. FINK, M.D., M.G.A, M.P.H  
DIRECTOR OF HEALTH  
KA LUNA HO'OKELE

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
KA 'OIHANA OLAKINO  
P. O. Box 3378  
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**Testimony COMMENTING on HB2806 HD2  
RELATING TO OPIOID LITIGATION**

REPRESENTATIVE KYLE YAMASHITA, CHAIR  
HOUSE COMMITTEE ON FINANCE

February 28, 2024, 10:00 AM Room Number: 308

1 **Fiscal Implications:** If this bill moves forward, the Department of Health (“Department”)  
2 requests \$1,250,000 in opioid settlement funding for this measure for five positions for one (1)  
3 year provided it doesn’t supplant requests outlined in the Governor’s executive budget request  
4 for FY2024-2025.

5 **Department Position:** The Department provides the following comments on this measure.

6 **Department Testimony:** The Alcohol and Drug Abuse Division (ADAD) provides the  
7 following testimony on behalf of the Department.

8 The bill establishes an opioid litigation proceeds special fund; a proceeds council to oversee  
9 the Hawaii Opioid Settlement Advisory Committee’s (HOSAC) expenditure of the special fund;  
10 purposes for the special fund; parameters for the special fund disbursements and other  
11 restrictions; guidelines for investing the special fund receipts; reporting requirements for  
12 recipients and the department; duties of the program director; and funds five-full-time equivalent  
13 positions.

14 The Department of the Attorney General (AG) secured a Master Settlement Agreement that  
15 is national in scope, as part of a multi-state suit against manufacturers and distributors of opioids  
16 due to their roles in the nationwide opioid crisis. The State and the counties negotiated and  
17 executed a binding memorandum of agreement for use of the settlement funds which created the

1 Hawaii Opioid Settlement Advisory Committee (HOSAC) to manage the funds. The HOSAC  
2 has a diverse membership encompassing the following counties and agencies:

- 3 • The mayor, or mayor's designee, from each of the following: the County of Hawai'i, the  
4 County of Kaua'i, the County of Maui, and the City and County of Honolulu;
- 5 • A designee of the Director of the Department of Health;
- 6 • The director of the Department of Corrections and Rehabilitation, or designee;
- 7 • The Superintendent of the Department of Education, or designee; and
- 8 • The University of Hawai'i Medical School President, or designee.

9 Please note that the HOSAC is in its infancy, having met monthly for just over one year. In  
10 just one year, despite workforce challenges we agree with the being accountable and transparent,  
11 and have:

- 12 • Studied best practices in other states;
- 13 • Established procedures for operating HOSAC meetings;
- 14 • Hired three full-time positions to support the opioid settlement program;
- 15 • Researched best practices to distribute the funds in a community driven transparent  
16 manner; and
- 17 • Identified over \$13 million in planned spending on county and state-wide projects.

18 To ensure transparency and accountability, we are developing a dedicated opioid settlement  
19 fund website. We hope for a “go live” before the end of Session. We also recently co-hosted a  
20 statewide gathering of community partners that included first responders and other critical  
21 agencies like the Department of Corrections and Rehabilitation, Department of Education,  
22 criminal justice representatives, county representatives, non-profits, community members, and  
23 people currently in recovery.

24 The bill is well intentioned, however there are concerns that it will have unintended  
25 consequences for opioid remediation efforts statewide. The Department offers the following  
26 concerns with the current version:

- 1       • The bill creates an additional committee to oversee settlement fund expenditures that is  
2       redundant with what HOSAC has been doing over the past year. It will add significant  
3       bureaucracy resulting in delays due to new administrative requirements.
- 4       • The council in the bill does not supplant the existing HOSAC as established by the  
5       agreement between the State and counties, which means the advisory committee and the  
6       council will need to co-exist. More parameters will be needed to address how they will  
7       work together.
- 8       • The bill does not address what happens if the council and the HOSAC do not agree on a  
9       proposed project.
- 10      • The bill does not address any conflicts of interest that may exist if for example a county  
11      member is asked to serve on both the council and the HOSAC (since there is some  
12      membership duplication), or if a provider who may receive funding from the decisions of  
13      the council gets to serve on the council.
- 14      • Providing staff support and managing two bodies—the council and the HOSAC—will  
15      also increase administrative costs, which means less opioid settlement funds are available  
16      for direct services to those struggling with opioid use.
- 17      • The consequences of increased bureaucracy and administrative costs will negatively  
18      impact the timely distribution of settlement funds for opioid remediation activities.
- 19      • The bill does not supercede the state agreement with the counties because the agreement  
20      with the counties is based on a national Master Settlement Agreement. Any conflicts that  
21      may arise between the bill and the agreement will cause delays in opioid remediation  
22      efforts statewide.
- 23      • The allowable expenses of the settlement funds are very specific. The HOSAC is  
24      responsible for ensuring all funds are spent within the parameters set out in the Master  
25      Settlement Agreement.

26       In light of these ongoing concerns, we believe the bill should be deferred at least for this  
27       Session, while the department discusses the bill and any appurtenant model legislation on opioid  
28       settlement with the HOSAC, recommend ways to make the use of opioid litigation funds more  
29       accountable and transparent, and develop recommendations to next year’s Legislature.

1 Thank you for the opportunity to testify on this measure.





## **HB2806 HD2 Opioid Settlement Bill to Support SUD Treatment**

COMMITTEE ON FINANCE

Rep. Kyle T. Yamashita, Chair

Rep. Lisa Kitagawa, Vice Chair

Wednesday, Feb 28, 2024:10:00: Room 308 Videoconference

### **Hawaii Substance Abuse Coalition Supports and Recommends for HB2806 HD2:**

*ALOHA CHAIR, VICE CHAIR, AND DISTINGUISHED COMMITTEE MEMBERS. My name is Alan Johnson. I am the current chair of the Hawaii Substance Abuse Coalition (HSAC), a statewide organization for substance use disorder and co-occurring mental health disorder treatment and prevention agencies and recovery-oriented services.*

**HSAC supports the amendment that funds would support positions within DOH:ADAD.**

**HSAC appreciates the amendment to add an HSAC member as one of the 5 community members because HSAC agencies have expertise in substance abuse prevention and treatment, recovery, and harm reduction.**

This is great news that \$19 million has been received and over \$156 million is expected in total.

We highlight and stress that firm commitment and transparent planning is need so that opioid litigation proceeds be directed towards prevention as well as to address substance use disorders, overdoses, and other drug-related harms, which is what the intended purpose is for the settlement.

- This can be achieved by establishing an opioid litigation proceeds special fund to be administered by a transparent council.
- The council is subject to the DOH to ensure proceeds are allocated and spent on Funds for substance use disorder abatement, infrastructure, programs, services, supports, and resources for prevention, treatment, recovery, and harm reduction that are no less than the sums of the moneys for these purposes appropriated.
- Limits on funds used for other purposes.

**HSAC supports that an Opioid Settlement that is a response to our community becoming addicted to or suffering from opioids include: substance abuse and co-occurring disorder related services such as:**

1. Residential and outpatient, which is formal treatment for both adults and adolescents.
2. Prevention programs for our youth.
3. Stabilization services such as crisis intervention beds, case management
4. Recovery oriented services such as outreach and harm reduction are very important.
5. Medication therapies such as suboxone, methadone, naloxone:
6. Primary Care Services – develop motivational interviewing for PCPs to provide guidance or referral.
7. Housing with Supportive Services
8. Vocational counseling services
9. Mental Health agencies and Child and Adolescent Services
10. Funding for DOH state agencies especially ADAD

After some funds are distributed to state and county agencies, HSAC supports that the bulk of funds are distributed according to:

- Identifying structural gaps in substance use disorder services,
- Infrastructure for evidenced-based prevention and treatment, recovery, or harm reduction services,
- Services for evidenced-based prevention and treatment, recovery, or harm reduction services,
- Evidenced-informed services for prevention and treatment, recovery, or harm reduction services provided that the emerging evidence supports such distributions of funds for these uses that has reasonable expectations of becoming evidenced-based in the near future,
- Evaluation processes of outcomes for fund uses.

**HSAC finds that the uses noted above are necessary to serve the public interest and that such services are greatly underfunded across the nation, including Hawaii, and that such services will greatly improve the quality of life for Hawai'i.**

We appreciate the opportunity to provide testimony and are available for questions.



**To: Committee on Finance**

**Hearing Date/Time: Wednesday February 28, 2024 10:00 AM**

**Re: Testimony in Strong Support of HB 2806 HD2**

**From: Heather Lusk, Hawaii Health and Harm Reduction Center**

Dear Chair Yamashita, Vice Chair Kitigawa and Members of the Committee:

The Hawaii Health & Harm Reduction Center (HHRC) **supports HB 2806 HD 2** which would support dissemination of the opioid litigation funds and establish a council to administer the special fund. These funds may be used for a variety of substance use related activities and are desperately needed to save lives, increase treatment capacity and promote recovery.

HHRC's mission is to *reduce harm, promote health, create wellness and fight stigma in Hawaii and the Pacific*. We focus our efforts on those disproportionately affected by social determinants of health, including but not limited to: people living with and/or affected by HIV, hepatitis, substance use, and the transgender, LGBTQ and the Native Hawaiian communities.

HHRC was a founding member of the Hawaii Opioid Initiative (HOI) and has been involved in distributing naloxone, an opioid antagonist, statewide to prevent death from opioid-related overdose. HHRC is also one of the largest treatment providers for Opioid Use Disorder and daily experiences the struggle of accessing detox services and other treatment services for those struggling with OUD and other substance use disorders.

We strongly recommend that a member of the Hawaii Substance Abuse Council (HSAC) be appointed to the Council described in HB 2806 and also recommend someone with lived experience of OUD in order to ensure the funds are spent aligned with best practices.

Thank you for the opportunity to testify.

Heather Lusk, Executive Director, Hawaii Health and Harm Reduction Center

# TAX FOUNDATION OF HAWAII

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126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

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**SUBJECT:** MISCELLANEOUS, Hawai'i Opioid Litigation Proceeds Special Fund; Hawai'i Opioid Litigation Proceeds Council; Establishment

**BILL NUMBER:** HB 2806 HD 2

**INTRODUCED BY:** House Committee on Judiciary & Hawaiian Affairs

**EXECUTIVE SUMMARY:** Establishes the Hawai'i opioid litigation proceeds special fund. Establishes the Hawai'i opioid litigation proceeds council to administer the special fund. Establishes standards for expenditure of opioid litigation proceeds received by the State. Establishes and appropriates funds for three full-time equivalent positions.

**SYNOPSIS:** Amends the HRS by adding a new chapter to establish a special fund and a council to take charge of collection and disbursement of opioid litigation proceeds.

**EFFECTIVE DATE:** July 1, 3000.

**STAFF COMMENTS:** The 1989 Tax Review Commission noted that use of special fund financing is a "departure from Hawaii's sound fiscal policies and should be avoided." It also noted that special funds are appropriate where the revenues to the funds maintain some direct connection between a public service and the beneficiary of that service. The Commission found that special funds which merely set aside general funds cannot be justified as such actions restrict budget flexibility, create inefficiencies, and lessen accountability. It recommended that such programs can be given priority under the normal budget process without having to resort to this type of financing.

This bill means to structure new government around the opioid litigation proceeds that the State is expecting, which the preamble to this bill pegs at \$156 million.

We question why this new government is needed. The \$156 million, or installments of it, can go into the general fund; at that point the Legislature can exercise its constitutional responsibilities and determine which of the State's priorities are worthy of funding. The bill proposes, in essence, abdication of that responsibility to a nameless, unelected council.

Digested: 2/26/2024

**HB-2806-HD-2**

Submitted on: 2/26/2024 9:37:52 AM

Testimony for FIN on 2/28/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Aaron Ruddick	Individual	Support	Written Testimony Only

Comments:

Dear Chair Yamashita, Vice Chair Kitagawa and members of the committee

I **support HB 2806** which would support dissemination of the opioid litigation funds and establish a council to administer the special fund. These funds may be used for a variety of substance use related activities and are desperately needed to save lives, increase treatment capacity and promote recovery.

**HB-2806-HD-2**

Submitted on: 2/27/2024 8:17:38 AM

Testimony for FIN on 2/28/2024 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Thaddeus Pham	Individual	Support	Written Testimony Only

Comments:

Aloha Chair Yamashita, Vice Chair Kitagawa, and FIN Committee members,

As a public health profession and concerned citizen, I write in **support of HB 2806 HD2**, which would enhance disbursement of the opioid litigation funds and establish a council to administer the special fund.

As made evident in the The 2022 Revised State Plan on Substance Abuse (Revised May 2023) from the Dept. of Health (<https://health.hawaii.gov/substance-abuse/state-plan/>), the infrastructure for substance use prevention, treatment, and care is woefully lacking, especially for underserved communities (eg, Native Hawaiians; sexual and gender minorities). These funds provide a rare opportunity to make meaningful impact on public health in Hawai'i. In addition, there are existing models of success from other states that also seek to engage community partners and invest in local projects.

Ensuring rapid but thoughtful deployment of these funds for the entire continuum of care (from prevention to treatment to harm reduction) can help to improve lives of local residents.

Mahalo for your consideration,

Thaddeus Pham (he/him)

**HB-2806-HD-2**

Submitted on: 2/27/2024 8:28:18 AM

Testimony for FIN on 2/28/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Beatrice Zovich	Individual	Support	Written Testimony Only

Comments:

Dear Chair Yamashita, Vice Chair Kitagawa and members of the committee

I **support HB 2806** which would support dissemination of the opioid litigation funds and establish a council to administer the special fund. These funds may be used for a variety of substance use related activities and are desperately needed to save lives, increase treatment capacity and promote recovery.

**HB-2806-HD-2**

Submitted on: 2/27/2024 8:57:54 AM

Testimony for FIN on 2/28/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Jason Yaris	Individual	Support	Written Testimony Only

Comments:

Dear Chair Yamashita, Vice Chair Kitagawa and members of the committee

I **support HB 2806** which would support dissemination of the opioid litigation funds and establish a council to administer the special fund. These funds may be used for a variety of substance use related activities and are desperately needed to save lives, increase treatment capacity and promote recovery.

Sincerely,

Jason Yaris

Makaweli, Kauai, Hawaii 96769



**HB-2806-HD-2**

Submitted on: 2/27/2024 9:58:19 AM

Testimony for FIN on 2/28/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Kerri Okamura	Individual	Support	Written Testimony Only

Comments:

I support HB2806 which would support dissemination of the opioid litigation funds and establish a council to administer the special fund. These funds may be used for a variety of substance use related activities and are desperately needed to save lives, increase treatment capacity and support recovery.

Sincerely,

Kerri Okamura, R.Ph.

**HB-2806-HD-2**

Submitted on: 2/28/2024 2:09:55 AM

Testimony for FIN on 2/28/2024 10:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Angela Melody Young	Kapalama Neighborhood Security Watch	Support	Remotely Via Zoom

Comments:

Kapalama NSW testifies in strong support.