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TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS
ON
SENATE BILL NO. 74

February 4, 2025
3:05 p.m.
Room 225 and Videoconference

RELATING TO STATE CONSTRUCTION PROJECTS

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

Senate Bill (S.B.) No. 74 adds a new chapter entitled, "State Architect," to:

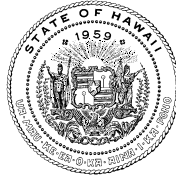
1) establish the Office of the State Architect (OSA) within the Department of Accounting and General Services which shall be headed by a full-time State Architect, appointed by the Governor, to organize, manage, and oversee the design review of all State construction projects and issue design approvals before any State construction commences; 2) establish the Design Review Special Fund (DRSF) to be administered by the State Architect; 3) appropriates an unspecified amount of general funds for FY 26 and FY 27 to be deposited into the DRSF; and 4) appropriates an unspecified amount of special funds out of the DRSF for FY 26 and FY 27 for the establishment of 1.00 full-time equivalent (FTE) State Architect position and an unspecified amount of FTE positions within the OSA for the administration and implementation of this bill. Revenues for the DRSF include payments for services provided to State agencies, legislative appropriations, and interest.

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 S.B. No. 74, it is difficult to determine whether the proposed special fund would be self-sustaining.

Further, B&F has concerns that an additional layer of review by a single office for all State construction projects may impede the timeliness of project completions statewide.

Thank you for your consideration of our comments.

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



LATE

KEITH A. REGAN
COMPTROLLER
KA LUNA HO'OMALU HANA LAULĀ

MEOH-LENG SILLIMAN
DEPUTY COMPTROLLER
KA HOPE LUNA HO'OMALU HANA LAULĀ

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA 'OIHANA LOIHELU A LAWELAWÉ LAULĀ
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WRITTEN TESTIMONY
OF
KEITH A. REGAN, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE

COMMITTEE ON GOVERNMENT OPERATIONS

FEBRUARY 4, 2025, 3:05 P.M.
CONFERENCE ROOM 225 AND VIA VIDEOCONFERENCE, STATE CAPITOL

S.B. 74

RELATING TO CONSTRUCTION PROJECTS

Chair McKelvey, Vice Chair Gabbard, and Members of the Committee, thank you for the opportunity to submit testimony on S.B. 74. The Department of Accounting and General Services (DAGS) offers **comments** on this bill which proposes establishment of a new Office of the State Architect within DAGS to be headed by a State Architect.

As drafted, this bill would provide the State Architect oversight of the design review of all state construction projects to include the review of all plans, drawings, specifications, and any other documents necessary for state construction projects, and issue design approvals accordingly. This would create a new layer of bureaucracy as agencies handling CIP projects currently have internal design review processes similar to those provided in this measure, and it is likely that those internal reviews would be required to continue to be conducted prior to submitting for the Architect's review.

The Architect's review process will add additional time to the process resulting in delays for agencies to complete the design of projects within the time allowed by the statutory provisions governing the lapsing of CIP funds. Additionally, the department believes some aspects of the bill may be overly broad. For example, the bill would require the Architect to "issue design approvals before any state construction project proceeds" (page 2, line 2-3). While such approvals may be appropriate for traditional Design-Bid-Build projects, they would not be appropriate to Design-Build and P3 projects and would unreasonably expand the State's liability for those projects, as such State approval would relieve the design-builder or developer of maintaining responsibility for their own design.

The scope and volume of work assigned to the Architect would require the creation of a significant organization, with staffing of perhaps 100 or more people, including both technical staff and administrative/clerical/accounting support staff.

The bill provides funding for the Architect through both appropriations and assessments of fees against projects. Until FY2019 PWD was similarly funded, with technical staff costs paid through the "Public works project assessment fund" established under HRS 107-1.5 and overhead staff costs paid through annual operating appropriations. In FY2019, apparently in response to concerns regarding the use of General Obligation (GO) bond proceeds to fund the operating costs represented by staff salaries, funding for all staff costs was converted to annual general fund appropriations. The current bill proposes a similar mix of GO and general revenue funding for the Architect.

Section 2 (starting on page 5) of the bill amends HRS 26-6(b) by addition of a new paragraph “(14) Provide exclusive centralized design review services for state construction projects and issue design approvals through the state architect.” From our experience with centralized functions, such as the centralized engineering and office leasing services as provided in HRS 26-6(b)(6), we note that flexibility and allowances for implementation would need to be considered. For example, several departments and agencies have established stand-alone engineering functions intended to be more directly responsive to the specialized requirements of those agencies, i.e., more responsive than may be possible through a centralized agency. It would seem likely that similar considerations would be needed and provided for viz-a-viz the Architect’s centralized functions.

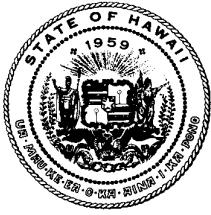
Section 3 (starting on page 9) amends HRS 46 to exempt State projects from some aspects of county permitting. While the bill proposes exemption from certain permitting processes, the identified processes can already be addressed using Third Party Permitting (TPR) such as is being used by the City and County of Honolulu and for a limited variety of permitting actions in Maui County, which essentially deputize private consultants to review designs for compliance with the applicable construction, electrical, energy conservation and plumbing codes cited by the draft bill. We also note that the bill does not address mechanical, fire, and existing building codes; and specifically excludes exemption from “compliance with master plans or zoning laws or regulations, compliance with building and health codes and other laws, ordinances, or rules and regulations of similar nature applicable to the state construction project.”

Exempting State projects from the county issuance of Certificates Of Occupancy (COO) does not address the reliance of insurers on COOs to document the insurability of facilities and may result in unintended negative consequences for non-State entities wishing to use State facilities whose insurers require submittal of a COO to issue State-required insurance for such use.

As an alternative to using the Architect's exemptions from county permitting to ease the flow of State projects, the department suggests that the State consider what the State can do to assist the counties to discharge their permitting responsibilities regarding State projects, e.g., provide State funding for county positions dedicated to the permitting of State projects.

Thank you for the opportunity to provide testimony on this measure.

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February 4, 2025

TESTIMONY TO THE SENATE COMMITTEE ON GOVERNMENT OPERATIONS

Senate Bill 74 – Relating to State Construction Projects

The Disability and Communication Access Board (DCAB) supports the intent of Senate Bill 74 – Relating to State Construction Projects. This bill establishes the Office of the State Architect within the Department of Accounting and General Services (DAGS) to be headed by the State Architect. It authorizes the State Architect to organize, manage, and oversee the design review of all state construction projects and issue design approvals. It establishes the Design Review Special Fund. It requires the State Architect to submit a report to the Governor and Legislature. It authorizes DAGS to provide centralized design review services for state construction projects and issue design approvals through the State Architect. It exempts state construction projects from county building permit, inspection, and certificate of occupancy requirements, subject to certain conditions, and it makes appropriations.

Prior versions of the Hawaii State Building Code as adopted by the State Building Code Council included the following exemption: Chapter 11 Accessibility. Chapter 11 is deleted in its entirety and replaced to read as follows: “1101 Scope. Buildings or portions of buildings shall be accessible to persons with disabilities in accordance with the following regulations: 1. For construction of buildings or facilities of the state and county governments, compliance with Section 103-50 HRS, administered by the Disability and Communication Access Board, State of Hawaii.”

However, due to the Building Code Council's inability to adopt a revised Hawaii State Building Code following Governor Green's Emergency Proclamation on Housing, the current Hawaii State Building Code defaults to the 2021 International Building Code (IBC). The IBC includes Chapter 11 Accessibility. Section 103-50, Hawaii Revised Statutes requires all state and county projects to submit plans to DCAB for a compliance review with the Americans with Disabilities Act Accessibility Guidelines, Title 36 Code of Federal Regulations Part 1191, and of the Federal Fair Housing Amendments Act of 1988 as applicable. Since the IBC differs from the various federal regulations, a bifurcated review process may cause projects to be delayed from entering their construction phase.

Therefore, DCAB recommends establishing the Office of the State Architect after the Hawaii State Building Code Council adopts a new Hawaii State Building Code.

Respectfully submitted,

KIRBY L. SHAW
Executive Director