

HB 993

TESTIMONY BY GEORGINA K. KAWAMURA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
STATE OF HAWAII
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 993, H.D. 2

March 27, 2009

PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION, RELATING TO
THE DISPOSITION OF PROJECTED EXCESS REVENUES

House Bill No. 993, H.D. 2, proposes an amendment to the Hawaii Constitution to require the Legislature to: 1) return a specific amount of revenues (1%) as a tax refund and 2) deposit into the Emergency and Budget Reserve Fund the excess revenues above 7%, whenever general fund revenue estimates exceed 7% growth for two consecutive fiscal years.

The Department of Budget and Finance concurs with the intent of setting aside excess general fund revenues in the Emergency and Budget Reserve Fund to prepare for a rainy day. Current budget difficulties clearly point out the need for the State to save and build up a financial reserve during periods of strong economic growth, to be used when there is an emergency or economic downturn. The bill provides an additional funding source for the Emergency and Budget Reserve Fund to supplement the annual deposits from the tobacco settlement.

However, we do not support this measure. Decisions regarding general funds should be considered for their impact on the general fund balance and not simply on the basis of projected revenue growth of one or two fiscal years. Annual revenue growth above the 7% level is not sufficient to ensure that the general fund budget and financial plan is in

balance, as required by the State Constitution. Actual and projected revenue changes must be considered in the broader context of the six-year financial plan. Furthermore, as we have seen, revenue projections can change significantly even over a short period of time.

The proposed tax refund or tax credit in House Bill No. 993, H.D. 2, is also problematic as it appears to be inconsistent with current law. Presently, under the State Constitution, Article VII, Section 6, a tax refund must be provided whenever the general fund balance exceeds 5% of general fund revenues in two successive fiscal years. House Bill No. 993, H.D. 2, requires a tax refund of 1% of general fund revenue collections whenever general fund revenue estimates grow by at least 7% for the second consecutive year.

Instead, we recommend your consideration of the framework proposed in Senate Bill No. 885 relating to deposits into the Emergency and Budget Reserve Fund. This is an Administration proposal to statutorily save 1% of the general fund balance when certain conditions are met. This bill also clarifies that the deposit shall be made after the constitutional requirement of a tax refund is satisfied.

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**SENATE COMMITTEE ON WAYS & MEANS
TESTIMONY REGARDING HB 993 HD 2**

**PROPOSING AN AMENDMENT TO THE HAWAII CONSTITUTION, RELATING TO
THE DISPOSITION OF PROJECTED EXCESS REVENUES**

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)
DATE: MARCH 27, 2009
TIME: 9:30AM
ROOM: 211

This measure proposes a constitutional amendment to require that the Legislature return a specific amount of revenues as a tax refund or credit to taxpayers and to deposit a specific amount into emergency savings when the general revenues meets a certain threshold.

The Department of Taxation (Department) provides comments; and defers to the Department of Budget & Finance.

PURPOSE OF THE CONSTITUTIONAL REFUND—The purpose of the mandated refund is to ensure that the government is not overtaxing beyond what expenditures require. By not having the current constitutional "check" in the system that returns excess revenues, there remains no incentive to tax beyond the optimal amount of revenue to carry out the State's business. The government should not be in the business of making a profit and should only levy a sufficient amount of tax to carry out operations and no more.

FUNDING THE EMERGENCY & BUDGET RESERVE FUND—As a result of the slowing economies locally, nationally, and globally, the State's economy and commensurate tax revenue collections have dropped substantially. Fiscal prudence is critical. By having a built-in mechanism to return excess revenues to the taxpayers that built the reserve and to invest the reserve for when times are tough is prudent.

The Department defers to B&F on what requirements must be satisfied in order to trigger these deposits.

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SUBJECT: CONSTITUTIONAL AMENDMENT, Deposit into emergency and budget reserve fund

BILL NUMBER: HB 993, HD-2

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Adds a new section to Article VII of the State Constitution to provide that during a regular session in which the council on revenues projects that for the second consecutive fiscal year general fund revenues for the current fiscal year will exceed general fund revenues for the prior fiscal year by at least 7%, the legislature shall: (1) set aside 1% of general fund revenues collected in the prior fiscal year as a tax refund or tax credit to the taxpayers; and (2) deposit into the emergency and budget reserve fund, moneys in the current fiscal year that exceed revenues in the prior fiscal year by 7%; provided that no deposit shall be made if the balance in the emergency and budget reserve fund is equal to or greater than ___% of general fund expenditures for the prior fiscal year.

EFFECTIVE DATE: Voter approval

STAFF COMMENTS: The proposed measure provides that if the council on revenues projects that general fund revenues for two consecutive fiscal years will exceed general fund revenues collected in a prior fiscal year by 7%, the legislature shall: (1) return 1% of general fund revenues collected in a prior fiscal year as a tax refund or credit to taxpayers; and (2) deposit into the emergency and budget reserve fund, general funds collected in a current fiscal year that are in excess of 7% of what was collected in a prior fiscal year.

The Emergency Budget and Reserve Fund was a recommendation of the 1990 Tax Review Commission which noted that one of the reasons policy makers used in deflecting past attempts to reduce the overall level of taxes in Hawaii was that the high level of taxes provides a cushion against an economic downturn. It should be noted that the emergency budget and reserve fund was viewed as a source of funding in the event of a natural disaster or some unforeseen crisis. It was not intended to supplement ongoing program funding when current resources are not available. However, Act 304, SLH 1999, provided that one of the purposes for which appropriations from the fund could be made is to maintain levels of programs determined to be essential to public health, safety and welfare.

If this measure is approved, it would mandate that the legislature deposit such funds into an emergency and budget reserve fund. In a sense this is a "forced savings" formula for the legislature which has been so accustomed to spending every dime they can get their hands on. Not only does it make the legislature put away money in savings, but it also provides for the mandated constitutional refund and contains a trigger that stops sweeps into the Emergency and Budget reserve fund so the fund does not become a "slush" fund where lawmakers can hide money like they did in the early 1990 's when they created a plethora of special funds.

This constitutional amendment certainly is worthy of serious consideration as a means to avoid another situation similar to the current one.

Digested 3/25/09



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The Twenty-Fifth Legislature, State of Hawaii
Hawaii State Senate
Committee on Ways and Means

Testimony by
Hawaii Government Employees Association
March 27, 2009

H.B. 993, H.D. 2 – PROPOSING
AN AMENDMENT TO THE
HAWAII CONSTITUTION
RELATING TO THE
DISPOSITION OF EXCESS
REVENUES

The Hawaii Government Employees Association supports the purpose and intent of H.B. 993, H.D. 2. This proposed amendment to the Hawaii State Constitution would require that, when the general fund revenues are projected to exceed 7% of the general funds revenues of the previous year for two consecutive years, a sum equal to the amount above the 7% increase will be deposited into the emergency and budget reserve fund unless the amount in the emergency and budget reserve fund is equal or exceeds an unspecified percentage of general fund expenditures for the prior fiscal year.

The bill also requires the Legislature to set aside an amount equal to 1% of general fund revenues collected in the prior fiscal year as a tax refund or tax credit to taxpayers. When the capacity to generate revenue is strong, the state should save the surplus for use when revenue generation is weak. Passage of this constitutional amendment will provide more flexibility to access needed funds to balance the budget while also providing better planning to address cycles of economic growth and decline.

Many states have successfully used rainy day funds as a cushion against fluctuations in economic and business cycles.

Thank you for the opportunity to testify in support of H.B. 993, H.D. 2.

Respectfully submitted,

Nora A. Nomura
Deputy Executive Director