



LATE

Testimony to the Economic Development & Technology
and Commerce & Consumer Protection Committees
on Friday, March 12, 2010 at 2:15pm
Conference Room 016

**Re: Opposition of HB1926 HD2 Relating to the Department of
Business, Economic Development, and Tourism**

Dear Chairs Fukunaga and Baker, Vice Chairs Baker and Ige,
and Members of Both Committees,

Aloha , I am writing on behalf of the Maui Chamber of Commerce, a business organization comprised of approximately 800 businesses and representing nearly 20,000 employees on Maui, in opposition of HB1926 HD2 because it increases the cost of doing business and this is not an appropriate time for such measures. We represent the voice of businesses on Maui and are deeply concerned by this bill.

The justification for this bill notes that the legislature finds that the department of business, economic development, and tourism (DBEDT) provides services and programs that promote economic development and that the continued operation of the department is imperative for the recovery of the economy of the state. These are statements we whole heartedly agree with, however, the bill goes surprisingly off the mark when it further states that "The legislature also finds that fees for business- and commerce-related permits and authorizations have a nexus to the business climate and economic performance of the state. The legislature believes, in general, that the success of the department of business, economic development, and tourism in promoting the economy logically should result in the increase of the business activities of most of the fee payers. Consequently, the legislature finds that imposing a surcharge upon these fees to fund the department is appropriate."

Our goal is to stimulate the state economy and rid our state of the plague and reputation of having a high cost of doing business here. If this is the state's goal as well, then why impose additional fees on businesses, further increasing the cost of doing business here, and equating to another tax on businesses? It is contrary to the goal and not appropriate in these economic times.

Adding a surcharge of \$20, in addition to any fee, if any, charged by the:

(1) department of commerce and consumer affairs (DCCA) for: (a) the application, issuance, renewal or re-issuance of a license, permit, or other

authorization for a profession, business, or occupation; (b) examination or audit of a person engaged in a profession, business, or occupation; (c) filing, registration, or renewal of a corporate or other business document; (d) tax on insurance premiums;

(2) public utilities commission (PUC) pertaining to the regulation of a public utility or filing of any document;

(3) the department of labor and industrial relations (DLIR) pertaining to the regulation of a hoisting machine operator, blaster or pyrotechnics operator, safety and health professional, boiler installer or installation, and elevator mechanic or installation;

(4) the department of taxation (DOTax) for the application, issuance, renewal, or re-issuance of a license, permit, certificate, or other authorization required under the following taxes: general excise; transient accommodations; rental motor vehicle and tour vehicle; liquor; cigarette and tobacco; liquid fuel; public service company; and banks and financial corporations;

not only hurts businesses, it hurts residents as well as costs are ultimately passed on to consumers.

This bill already provide the justification for state funding of DBEDT, without further burdens on the backs of businesses and the community and without creating another Special Fund.

We realize the legislature is having to make tough calls right now and there are many other areas where revenue can be found, including: restructuring of our public educational system, reducing the size of government, and privatization of services, to name a few.

Additionally, we are concerned with an element in the bill to transfer money from Compliance Resolution Fund (CRF) to augment DBEDT funding as we understand it may present legal challenges given the December 2008 decision in *Hle v. Lingle*, and could present both a backlash and increased legal costs for our state.

While few testifiers have come forward thus far, more business people are becoming aware of this bill and deeply concerned.

The legislature has already taken swift action on the Unemployment Insurance Tax bill, helping to reduce costs for businesses, indicating a strong understanding of the need to help businesses survive. We ask for such support again, recognizing that this bill hurts all businesses, but particularly small businesses, and our residents. Please oppose this bill and continue to fund DBEDT as it has been funded in the past.

Sincerely,

Pamela Tumpap
President



LATE

March 12, 2010

TO: Committee on Economic Development and Technology
Senator Carol Fukunaga, Chair
Senator Rosalyn H. Baker, Vice Chair

FROM: Rob Welch

RE: **HB 1926 HD2 Relating to the Department of Business, Economic Development and Tourism**

Chair Fukunaga, Chair Baker and Members of the Committee:

My name is Rob Welch and I am the General Manager of Marriott's Maui Ocean Club Resort, we are also an active member of the Maui Chamber of Commerce.

We oppose HB 1926 HD2 because it increases the cost of doing business and this is not an appropriate time for such measures.

The justification for this bill notes that the legislature finds that the department of business, economic development (DBEDT) provides services and programs that promote development and that the continued operation of the department is imperative for the recovery of the economy of the state. There are statements we heartedly agree with, however, the bill goes surprisingly off the mark when it further states that "The legislature also find that fees for business=and commerce-related permits and authorization have a nexus to the business climate and economic performance of the state. The legislature believes, in general, that the success of the department of business, economic development and tourism in promoting the economy logically should result in the increase of the business activities of most of the fee payers. Consequently, the legislature finds that imposing a surcharge upon these fees to fund the department is appropriate."

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The legislature has already taken swift action on the Unemployment Insurance Tax bill, helping to reduce costs for businesses, indicating a strong understanding of the need to help businesses survive. We ask for such support again, recognizing that this bill hurts all businesses, but particularly small businesses and our residents. Please oppose this bill and continue to fund DBEDT as it has been funded in the past.

Thank you for allowing me to offer testimony on this measure.

fukunaga3 - Doris

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 12, 2010 1:21 PM
To: EDTTestimony
Cc: windsurf@maui.net
Subject: Testimony for HB1926 on 3/12/2010 2:15:00 PM

LATE

Testimony for EDT/CPN 3/12/2010 2:15:00 PM HB1926

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Catherine Clark
Organization: MAUI VACATION PROPERTIES
Address: PO Box 1359 Haiku, HI 96708
Phone: 808-575-9228
E-mail: windsurf@maui.net
Submitted on: 3/12/2010

Comments:

ENOUGH ALREADY! Most small businesses are already struggling to keep their doors open. Every day we look at the news and see new fees or taxes proposed. These fees ultimately must be covered by reduced employee hours or higher charges to consumers. A stronger economic model during tough times is to reduce fees / taxes to stimulate the economy. Look at each and every government expenditure to see what can be reduced or eliminated. It's time.

fukunaga3 - Doris

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 12, 2010 1:27 PM
To: EDTTestimony
Cc: mauilaub@aol.com
Subject: Testimony for HB1926 on 3/12/2010 2:15:00 PM

LATE

Testimony for EDT/CPN 3/12/2010 2:15:00 PM HB1926

Conference room: 016
Testifier position: oppose
Testifier will be present: No
Submitted by: Paul Laub
Organization: Recycled Bikes and Boards
Address: 1217 Front st Lahaina, HI
Phone: 442-2450
E-mail: mauilaub@aol.com
Submitted on: 3/12/2010

Comments:

Please only do those things that help business. It is counter productive to increase charges to Hawaii's businesses. Hawaii is on everybody's list as one of the least desirable business climates. Please change that and make Hawaii Number ONE. You can do it! Mahalo, Paul Laub

L E G I S L A T I V E

TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Surcharge fee on certain services

BILL NUMBER: HB 1926, HD-2

LATE

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Adds a new section to HRS chapter 92 to provide for the imposition of a temporary surcharge of \$20 in addition to any fee, if any, charged by the: (1) department of commerce and consumer affairs (DCCA) for: (a) the application, issuance, renewal of or re-issuance of a license, permit, or other authorization for a profession, business, or occupation; (b) examination or audit of a person engaged in a profession, business, or occupation; (c) filing, registration, or renewal of a corporate or other business document; (d) tax on insurance premiums; (2) public utilities commission (PUC) pertaining to the regulation of a public utility or filing of any document; (3) the department of labor and industrial relations (DLIR) pertaining to the regulation of a hoisting machine operator, blaster or pyrotechnics operator, safety and health professional, boiler installer or installation, and elevator mechanic or installation; (4) the department of taxation (DOTax) for the application, issuance, renewal, or re-issuance of a license, permit, certificate, or other authorization required under the following taxes: general excise; transient accommodations; rental motor vehicle and tour vehicle; liquor; cigarette and tobacco; liquid fuel; public service company; and banks and financial corporations.

The surcharge fee shall be imposed between July 1, 2010 and June 30, 2015 and shall be deposited into a newly created department of business, economic development, and tourism (DBEDT) operation special fund. Stipulates that no fee shall be imposed on: (1) any service for which no fee is charged; (2) any fine for a violation of a state law; (3) any fee for the dissemination or copying of a public record; or (4) any fee charged to a state, county, or federal agency.

Adds a new section to HRS chapter 201 to establish the department of business, economic development, and tourism operation special fund. Expenditures from the special fund shall be to pay for the operation of the department of business, economic development, and tourism, including the salary and fringe benefit costs of the department personnel.

Amends HRS section 26-9 to provide that by January 1, or as soon thereafter as possible, \$2,000,000 shall be deposited into the department of business, economic development, and tourism operation special fund provided that the moneys deposited shall not be derived from regulatory fees and shall be derived from taxes, penalties, and other levies.

This act shall be repealed on June 30, 2015 and HRS section 26-9(o) shall be reenacted in the form in which it read on the day before the effective date of this act.

EFFECTIVE DATE: July 1, 2020

HB 1926, HD-2 - Continued

STAFF COMMENTS: This measure proposes to impose a temporary surcharge of \$20 on certain fees or services charged by DCCA, PUC, DLIR, and DOTax between July 1, 2010 and June 30, 2015. The revenues derived from the surcharge are to be deposited into a newly created DBEDT operation special fund which, in turn, will be used to pay for the operation of DBEDT, including salary and fringe benefit costs of the department. The measure also diverts \$2 million of the compliance resolution fund to the DBEDT special fund. While the measure proposes that revenues from the DBEDT special fund shall be used to pay for the operation of DBEDT, it is questionable whether the special fund would be the only source of funding for DBEDT as there is no provision to disconnect DBEDT from receiving funds from the state budgetary process. If the special fund is the sole source of funding for DBEDT, and if the revenues from the surcharge are insufficient, there is no doubt the surcharge amount will have to be increased to provide adequate funds to operate DBEDT resulting in an indirect "tax increase" to taxpayers.

It should also be noted that the proposed measure would add another special fund to the numerous other special funds. It should also be remembered that the State Auditor's report on special funds noted that: "Special funds give agencies full control of these unappropriated cash reserves, provide a way to skirt the general fund expenditure ceiling, and over time erode the general fund. Many experts say that special funds are likely to hamper budget administration. And from a legislative perspective, they are less desirable because they are not fully controlled by the appropriation process."

Given the findings of the Auditor and the current financial crisis, it is quite clear that the creation of numerous special funds has eroded the integrity of state finances. It should be remembered that moneys in special funds are neither subject to the general fund expenditure limitation nor to the close scrutiny that general funds are subject to in the budgeting process. The use of special funds which fly under the radar will inevitably lead to a call for tax increases even though money abounds in these special funds. One only has to review the measures introduced each year which set up numerous new special funds or add new fees or charges the receipts of which are earmarked for special funds, to see the prolific establishment of special funds. Rather than create another special fund which will allow DBEDT to operate without financial scrutiny, lawmakers should repeal the numerous special funds and require these programs to compete for general funds like all other programs.

When Hawaii became a state in 1959, there were only three special funds - those established for transportation activities, highways, harbors, and airports. Through much of the first three decades of statehood, the financing structure remained that way, with the general fund underwriting nearly all of the state's programs. However, beginning in the late 1980's the creation of the special fund gained popularity, first to hide the embarrassing fact that the state was sitting on huge surpluses as a result of the TAT revenues which were supposed to fund the convention center but were instead being placed in the state general fund.

More than three decades ago, the people of Hawaii approved a constitutional amendment that mandated that state general expenditures not exceed the growth in the state's economy as measured by total state personal income. Until the late 1980's this monitor of state spending was effective in containing the growth in government. However, with the advent of the special fund phenomena, taxpayers could no longer see how government has grown. If one were to take the state's biennial operating budget for the 1995-1997 biennium and the same budget for the current biennium, excluding state transportation special funds, one would find that government spending grew by 90.3% while total personal income (TPI) grew by only 81.0%. Had certain state programs not been placed in special funds, the growth in state

HB 1926, HD-2 - Continued

government would have violated the constitutional general fund spending limit. Thus, it comes as no surprise that the state is in the financial straits it finds itself. When and until this free-wheeling spending can be controlled, taxpayers will find the growing burden of taxes getting heavier.

Thus, while this proposed measure may solve the current financial problems the much greater problem can only be solved by bringing all of these special fund financed programs back into the general fund and then deciding which programs are essential to the health and welfare of the community. Obviously, lawmakers have abdicated their fiduciary duties in favor of pandering to the politically popular and the various vocal minorities that want state government to provide every service from cradle to the grave.

Digested 3/9/10