



LINDA LINGLE
GOVERNOR

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LT. GOVERNOR

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LAWRENCE M. REIFURTH
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RONALD BOYER
DEPUTY DIRECTOR

TO THE HOUSE COMMITTEE ON FINANCE

TWENTY-FIFTH STATE LEGISLATURE
REGULAR SESSION, 2010

Friday, February 19, 2010
11:00 a.m.

**TESTIMONY ON HOUSE BILL NO. 2302, HOUSE DRAFT 1
RELATING TO INFORMATION TECHNOLOGY.**

WRITTEN TESTIMONY ONLY

TO THE HONORABLE MARCUS R. OSHIRO, CHAIR, AND MEMBERS OF THE
COMMITTEE:

The Department of Commerce and Consumer Affairs (Department) appreciates the opportunity to provide testimony opposing House Bill No. 2302, H.D. 1, Relating to Information Technology. My name is Lawrence M. Reifurth, and I am the Department's Director. House Bill No. 2302, H.D.1 among other things, proposes to:

- (1) Transfer the responsibility of providing centralized computer information management and processing services along with the responsibility to coordinate the use of all information processing equipment, software, facilities, and services for all departments and agencies in the Executive Branch;
- (2) Establish in the Office of the Lieutenant Governor, the Office of Information Technology (Office) and the position of Chief Information

Officer (CIO), which will be responsible for carrying out the transferred responsibilities;

- (3) Authorize the use of Compliance Resolution Fund (CRF) moneys to determine whether any State department is in compliance with the information technology policy established the Office and CIO;
- (4) Authorize the Department to bring into compliance, State agencies that are in noncompliance with the information technology policy;
- (5) Create the Shared Services Technology Special Fund (SSTSF) to fund the operations and activities of the Office; and
- (6) Require that: (a) five percent of the receipts collected from special funds for central services expenses, (b) five percent of all revenues deposited into the Compliance Resolution Fund (CRF), and (c) the pro rata share of the cost of implementing the information technology policies developed by the proposed Chief Information Officer, be deposited into the SSTSF.

Inconsistent Mission

The Department's core mission is to protect consumers from unfair business practices while "upholding fairness in the marketplace" by among other things, licensing occupations; investigating complaints against licensees and businesses; ensuring that insurance rates are not excessive, inadequate, or unfairly discriminatory; and ensuring that utility rate payers' interests are represented before the Public Utilities Commission. The Department's mission does not include monitoring policy compliance of other Executive Branch departments and agencies, or working to bring those noncompliant agencies into compliance. This bill would cause the Department to stray from, and lose focus of, its core mission.

No Revenues

The Department is a self-sufficient agency. We exist exclusively on what we charge our customers, in addition to the fines, penalties, and settlements obtained through our business regulatory functions. H.B. No. 2302, H.D.1 is silent on the subject of how the Department will generate revenues to pay for the additional monitoring and "enforcement" functions that the bill proposes to confer onto the Department.

With respect to other monitoring and enforcement activities, the Department charges those licensees and businesses that are subject to those enforcement activities a fee to pay for those expenses. If the Legislature intends for the Department to charge the other Executive Branch agencies for the monitoring and enforcement services we would be providing them, then the bill should be amended accordingly.

Paying Three Times

By requiring that:

- (1) Five percent of the receipts collected from special funds for central services expenses;
- (2) Five percent of all revenues deposited into the CRF; and
- (3) A pro rata share of the administrative expenses incurred to implement the information technology policies developed by the Office and CIO;

be used to fund the SSTSF, the bill in effect requires the CRF to pay three times into the SSTSF.

The CRF already pays five percent of its receipts for central services expenses, a part of which would be directed into the SSTSF under the bill. The CRF would also be required to pay an additional five percent of its revenues into the SSTSF. Additionally, the CRF would be required to pay a pro rata share of the administrative expenses

incurred to implement the information technology policies. Requiring the CRF to pay three times for the same services that would be provided to other agencies is unfair.

***HIC v. Lingle, et al.* Related Concerns**

CRF contributions into the SSTSF that exceed the level of benefit that the Department receives from the Office risk running afoul of the principles enunciated in the Supreme Court's 2008 decision in the *HIC v. Lingle* case. Moneys derived from fees set by the Department in the CRF are regulatory fees and can only be used for the benefit of the programs for which they were collected.

Thank you for the opportunity to present testimony on the bill.



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JAMES R. AIONA, JR.
LIEUTENANT GOVERNOR

February 18, 2010

**TESTIMONY ON HOUSE BILL 2302-HD1
A BILL FOR AN ACT RELATING TO
INFORMATION TECHNOLOGY**

**HOUSE COMMITTEE ON FINANCE
Representative Marcus Oshiro, Chair
Representative Marilyn Lee, Vice Chair**

**Friday, February 19, 2010
11:00 AM., Conference Room 308**

Good Morning Chair Oshiro, Vice Chair Lee, and Members of the Committee:

The Office of the Lieutenant Governor appreciates the opportunity to express concerns with H.B. 2302-HD1, Relating to Information Technology, which proposes to transfer the responsibility of developing and implementing statewide technology policies from the Department of Accounting and General Services (DAGS) to the Office of the Lieutenant Governor.

Specifically, H.B. 2302-HD1 would require the Office of the Lieutenant Governor to:

- (1) Provide centralized computer information management and processing services, along with the responsibility to coordinate the use of all information processing equipment, software, facilities, and services for all executive branch departments and agencies;

- (2) Establish within the Office of the Lieutenant Governor an Office of Information Technology which would be headed by a Chief Information Officer; and
- (3) Create and manage the Shared Services Technology Special Fund (SSTSF).

Inconsistent Mission

The core mission of the Office of the Lieutenant Governor is to enhance the efficiency and effectiveness of state programs by providing leadership and executive management and by developing policies and priorities for all state programs. Under Article V, Section 4 of the Hawaii State Constitution, the Lieutenant Governor acts in place of the Governor when the Governor is out of state.

Additionally, the Office of the Lieutenant Governor's statutorily mandated duties include leadership as the Secretary of State and necessary administrative support in the efficient implementation of all Secretary of State duties. These duties include, but are not limited to, name change processing, administrative rules depository functions, certifications, apostilles, posting of board and commission hearing notices, and the sale and distribution of legislative publications.

The Office of the Lieutenant Governor has never been responsible for developing, implementing or managing computer and information technology for the State of Hawai'i. Accordingly, it is inconsistent with our core mission for this responsibility to be assigned to the office.

Constitutional Violation

The Department of the Attorney General has advised that this bill, as currently written, runs afoul of Article V, Section 6 of the Hawai'i Constitution, which provides:

All executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be allocated by law among and within not more than twenty principal departments in such a manner as to group the same according to common purposes and related functions. Temporary commissions or agencies for special purposes may be established by law and need not be allocated within a principal department.

Per the Attorney General, Article V, Section 6 of the Hawai'i Constitution and HRS Section 26-4, HRS, require a state office or instrumentality, unless it is for temporary and special purposes, to be placed within a principal department of the state executive branch. Accordingly, by establishing the "office of information technology" within the Office of the Lieutenant Governor, the bill runs afoul of the above-stated constitutional provision.

Added Costs

Finally, transferring the responsibility to of developing and managing statewide computer technology networks would likely require costs to implement and maintain. In view of the financial difficulties now facing the State of Hawai'i, it is not an appropriate time to take on the additional expenses associated with the transfer of these functions.

Thank you for the opportunity to testify.

LINDA LINGLE
GOVERNOR



RUSS K. SAITO
Comptroller

SANDRA L. YAHIRO
Deputy Comptroller

**STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
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**TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE
ON
FINANCE
ON
February 19, 2010
H.B. 2302, H.D. 1**

RELATING TO INFORMATION TECHNOLOGY

Chair Oshiro and members of the Committee, thank you for the opportunity to testify on H.B. 2302, H.D. 1.

The Department of Accounting and General Services (DAGS) does not support this bill because we believe it is not necessary, and would require costs to implement and maintain for which there are no funds. It is also not an effective way to achieve the improvements that the bill seeks.

Transferring responsibilities for developing and implementing statewide technology policies from DAGS to the Office of the Lieutenant Governor would be ineffective as the responsibilities are not related to responsibilities of the Lieutenant Governor. In addition, the Office of the Lieutenant Governor is not intended to oversee day to day operations such as are performed by an IT organization such as DAGS' ICSD division. Furthermore, creating the position of chief information officer and office of

information technology, as this bill proposes, would require funding that the State does not have.

Please note that creating and funding the shared services technology special fund, as this bill provides, is similar to the bill that DAGS introduced in last year's Legislature. The bill is H.B. 1012, "Shared Services Technology Special Fund" and its companion S.B. 830. DAGS introduced these bills fully understanding that an important way to optimize the use of IT resources is to consolidate the funding of IT functions, as well as the approval of expenditures out of that consolidated funding account. DAGS recommends that you hear H.B. 1012 and its companion S.B. 830, and consider its passage this year.

The Department of Accounting and General Services, through its Information and Communication Services Division (ICSD), has been making significant progress on improving the State's IT governance, structure and services since 2007 when we hired a new ICSD Administrator and Assistant Administrator, both having extensive private sector IT experience. We are currently researching and gathering information and working with other departments on consolidating the management of various IT functions, especially in the areas of shared services, procurement, and enterprise architecture.

We appreciate your interest in improving IT for the State and will be happy to keep you apprised of the progress we make as we work towards improving governance, our IT structure, and services.

Thank you for the opportunity to testify on this matter.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-FIFTH LEGISLATURE, 2010**

ON THE FOLLOWING MEASURE:

H.B. NO. 2302, H.D. 1, RELATING TO INFORMATION TECHNOLOGY.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Friday, February 19, 2010 **TIME:** 11:00 a.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Mark J. Bennett, Attorney General, or
James F. Nagle, Deputy Attorney General

Chair Oshiro and Members of the Committee:

The Department of the Attorney General provides these comments regarding this bill.

The purpose of the bill is to establish the "office of information technology" and the position of chief information officer within the Office of the Lieutenant Governor. The Office of the Lieutenant Governor is not one of the twenty principal departments of the State. See, Hawaii Revised Statutes (HRS) § 26-4.

As currently written, this bill runs afoul of article V, section 6 of the Hawaii Constitution, which provides:

All executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be allocated by law among and within not more than twenty principal departments in such a manner as to group the same according to common purposes and related functions. Temporary commissions or agencies for special purposes may be established by law and need not be allocated within a principal department.

Thus article V, section 6 of the Hawaii Constitution and section 26-4, HRS, require a state office or instrumentality, unless it is for temporary and special purposes, to be placed within a principal department of the state executive branch. By establishing the "office of information technology" within the

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Twenty-Fifth Legislature, 2010
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Office of the Lieutenant Governor, the bill runs afoul of this constitutional provision. This constitutional defect can be rectified by establishing the "office of information technology" within a principal department of the state executive branch.

We suggest that the proposed addition to the bill at page 13, lines 9-11 be deleted. Because the "office of information technology" is not established under the Department of Commerce and Consumer Affairs (DCCA) in this version of the bill, this language is no longer appropriate and may result in confusion. DCCA's responsibilities and purpose are largely focused on enforcing compliance by private companies and persons within a wide range of regulatory laws. This bill would dramatically change DCCA's role by making it responsible for regulatory oversight of governmental agencies.

Finally, we note that the bill provides for three payments from DCCA's compliance resolution fund for the new services technology special fund ("technology fund") and its implementation via: (1) its direct payment of five percent into the technology fund (page 5, line 19, to page 6, line 1, of the bill); (2) its payment per section 36-27, HRS, as a special fund to the central service expense, five percent of which would go to the technology fund (page 5, line 19, to page 6, line 1, of the bill); and (3) its pro rata share of the administrative expenses of the department per section 36-30, HRS, which would include implementation of information technology policies developed by the chief information officer (page 21, lines 1-2, of the bill). An argument might be made that DCCA would be paying a disproportionate amount for the overhead and implementation of the technology fund. However, we believe that we can defend this aspect of the bill, so long as the services provided to DCCA by the "office of information technology" are

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reasonably proportionate to the amounts paid from the compliance
resolution fund.

HMSA



Blue Cross
Blue Shield
of Hawaii

An Independent Licensee of the Blue Cross and Blue Shield Association

February 19, 2010

The Honorable Marcus Oshiro, Chair
The Honorable Marilyn Lee, Vice Chair
House Committee on Finance

Re: HB 2302 HD1 – Relating to Information Technology

Dear Chair Oshiro, Vice Chair Lee and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to testify in **support** of HB 2302 HD1 which would create the position of Chief Information Officer housed within the Office of the Lieutenant Governor tasked with coordinating information technology policies throughout state government and improving information technology performance and efficiency.

It is an exciting time for the state of Hawaii with respect to information technology in general and health information in particular. Many entities are striving to become recipients of federal grant monies for planning and projects which will ultimately improve the entire system of health care in the state. As an example, the Hawaii Health Information Exchange will receive ARRA funding to create a statewide information exchange. With the large amount of dollars coming into the state, it will be important to ensure that there is both tracking and coordination of federal health information technology dollars.

We believe that the use of information technology in all fields will continue to expand and ensuring that the state is providing appropriate oversight to these efforts only makes sense. Therefore we support the goals outlined in HB 2302 HD1.

Thank you for the opportunity to testify today.

Sincerely,

Jennifer Diesman
Vice President
Government Relations