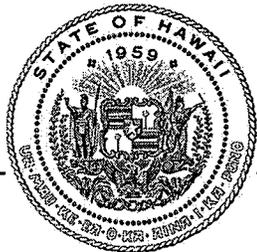


**HB 782**

**HD2, SD1**



AMENDED

NEIL ABERCROMBIE  
GOVERNOR

RICHARD C. LIM  
DIRECTOR

**DEPARTMENT OF BUSINESS,  
ECONOMIC DEVELOPMENT & TOURISM**

No. 1 Capitol District Building, 250 South Hotel Street, 5th Floor, Honolulu, Hawaii 96813  
Mailing Address: P.O. Box 2359, Honolulu, Hawaii 96804  
Web site: [www.hawaii.gov/dbedt](http://www.hawaii.gov/dbedt)

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Statement of  
**RICHARD C. LIM**  
Director

Department of Business, Economic Development, and Tourism  
before the

**SENATE COMMITTEE ON WAYS AND MEANS**

Wednesday, March 30, 2011  
9:30 am  
State Capitol, Conference Room 211

in consideration of  
**HB 782, HD2, SD1**  
**RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT,  
AND TOURISM.**

Chair Ige, Vice Chair Kidani, and members of the Committee. DBEDT supports the intent of HB782, HD2, SD1 to establish a special fund for DBEDT operations. This fund would be funded by various surcharge revenues. We defer to the departments who are affected by the surcharges for comment on the impact of this bill to their budget. For example, DLIR is having its own issues in implementing the measure and would need additional clerical support.

We appreciate the Committee's efforts to provide DBEDT with a dedicated source of funding which will enable us to engage in more long term planning, which is crucial to economic development.

Thank you for the opportunity to present this testimony.



**STATE OF HAWAII  
DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS**

830 PUNCHBOWL STREET, ROOM 321  
HONOLULU, HAWAII 96813  
[www.hawaii.gov/labor](http://www.hawaii.gov/labor)  
Phone: (808) 586-8842 / Fax: (808) 586-9099  
Email: [dlir.director@hawaii.gov](mailto:dlir.director@hawaii.gov)

March 29, 2011

To: The Honorable David Ige, Chair  
and Members of the Senate Committee on Ways and Means

Date: Wednesday, March 30, 2011

Time: 9:30 pm.

Place: Conference Room 211, State Capitol

From: Dwight Y. Takamine, Director  
Department of Labor and Industrial Relations

**Re: H.B. No. 782, H.D. 2 S.D. 1 Relating to the Department of Business, Economic  
Development, and Tourism**

**I. OVERVIEW OF PROPOSED LEGISLATION**

- A. Establish a new special fund for the operation of the department of business, economic development, and tourism, and
- B. Impose a \$20 surcharge on certain business- and commerce-related fees and require the surcharge revenues to be deposited into the special fund.

**II. CURRENT LAW**

N/A

**III. HOUSE BILL 782, H.D. 2**

- A. Within the department of labor and industrial relations, we believe the proposal would affect the following programs:

<b>Certification/Permitting Operation</b>	<b>Approx Nos.</b>	<b>Range of Fees</b>
Hoisting Machine Operators	200	\$ 50 - \$ 500
Blaster or Pyrotechnics Operator	150	\$50 - \$150
Safety & Health Professional	25	\$ 50 - \$300
Boiler Inspection and Permitting	12,000	\$ 35 - \$1,060
Elevator Inspection and Permitting	6,800	\$100 - \$450

Therefore, the proposed \$20 surcharge would affect 375 individuals and 18,800 businesses with a fee increase ranging from 40% to 2%.

Annual fees collected for the DBEDT special fund by the above programs would be approximately \$160,000 per year as not all fees are paid on an annual basis.

- B. The department is opposed to this measure for the following reasons:
1. The fee would cripple the Boiler and Elevator Inspection Branch and adversely affect the state's economic recovery. Developers installing elevators, escalators, dumbwaiters, and handicap lifts would not be able to get their permits to install or permit to operate on a timely basis thus delaying the start of the business, or compromising the business's ability to provide elderly or the mobility impaired access to their services.

The software program used by the department for boilers and elevators is not capable of accounting for a separate surcharge and would therefore not be able to identify and separate the amounts that would be deposited into a separate fund versus the amount that goes into the general fund.

The software program is no longer being supported by the vendor and is not capable of being easily re-programmed to support the identification of a separate surcharge. The approximate cost of obtaining a new software program has been estimated to be over \$100,000.

If the HIOSH Boiler and Elevator Inspection Branch, which lost all clerical support with the reduction-in-force of November 2009, had to manually handle the transactions, no other activity, such as issuing permits

could be performed. No permits means that developers could not obtain their Certificate of Occupancy from the counties, legally operate their elevators, escalators, and dumbwaiters, and would suffer significant economic losses.

2. The nexus between the activities of the department of business, economic development, and tourism and the additional benefit to the businesses regulated by the department of labor and industrial relations is not as certain and tangible as the benefit to the businesses of having their permits issued on a timely basis.

Permits for boilers and elevators are backlogged by approximately 3 months as of today, e.g., inspections conducted of elevators on November 1, 2010 have yet to receive a permit to operate. The reduction-in-force of November, 2010 eliminated the clerical support whose function was to input the inspection data and generate the report and permits to operate. Without a permit to operate, new businesses are unable to begin operations and existing businesses may face an increase in insurance premiums because of the added liability to the property owner.

The department believes that a more appropriate boost to business would be to adequately fund existing operations that have a more direct impact on business operations and revenue. Businesses we contacted are willing to support an increase in fees only if the fees are dedicated to the inspection and permitting of their specific business activity, e.g. boiler and elevator installation and operation.

3. The fee surcharge is regressive - disproportionately affecting an individual blaster by increasing his/her fees by 40% each year, whereas the owner of a large power boiler would experience a fee increase of only 2%. Small business would be affected more severely by this surcharge.

The first three activities are certificates issued to individuals. The application fee is \$50, the initial certification fee ranges from \$150 to \$500 with renewal fees of \$50 a year to \$500 for a 5-year renewal. There are also special boiler inspector commission fees ranging from \$250 for the examination fee to \$35 for a 3-year renewal fee.

Boiler and elevator installation and inspection fees are assessed to building owners or contractors of new or renovated buildings or businesses. Many of these are small business owners with a single air compressor or a single

commercial rice cooker.

4. The language of the measure is unclear. It requires a “surcharge of \$20 upon every fee charged by the department of labor and industrial relations pertaining to the regulation of a boiler installer or installation, and elevator mechanic or installation”. As the department does not regulate boiler installers or elevator mechanics, it is unclear whether the term “installation” refers to the act of installing, or the premises, “the installation”.

If the term “installation” means the act of installing, then it would only apply to the installation permits, which number approximately 200 per year in total. If the term “installation” means the premises, then it would apply to all regulatory activity affecting the building or establishment. This definition of “installation” would affect approximately 18,800 establishments over a 4-year period – many of whom are very small businesses. The department believes the intent of the bill is this latter definition. However, if the measure moves forward, we request that the language be more clearly written to preclude legal challenge on who should pay this surcharge.



NEIL ABERCROMBIE  
GOVERNOR

BRIAN SCHATZ  
LT. GOVERNOR

STATE OF HAWAII  
OFFICE OF THE DIRECTOR  
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
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KEALI'I S. LOPEZ  
DIRECTOR

EVERETT S. KANESHIGE  
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON WAYS AND MEANS

TWENTY-SIXTH LEGISLATURE  
REGULAR SESSION, 2011

Wednesday, March 30, 2011  
9:30 a.m.

**TESTIMONY ON HOUSE BILL NO. 782, H.D. 2, S.D. 1 - RELATING TO THE  
DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM.**

TO THE HONORABLE DAVID Y. IGE, CHAIR, AND MEMBERS OF THE COMMITTEE:

The Department of Commerce and Consumer Affairs (Department) appreciates the opportunity to testify in opposition to House Bill No. 782, House Draft 2, Senate Draft 1 relating to the Department of Business, Economic Development, and Tourism. My name is Keali'i Lopez, and I am the Director of the Department (DCCA). HB 782, HD2, SD1 proposes, among other things, to add, for a period of several years, a \$20 surcharge on every fee charged by the Department for the:

- (1) Application, issuance, or renewal of a license, permit, or other authorization for a profession, business, or occupation;
- (2) Examination or audit of a person engaged in a profession, business, or occupation;
- (3) Filing, registration, or renewal of a business document;

- (4) Application for, or registration of, a trade name, trademark, or service mark; or
- (5) Tax on insurance premiums.

The proposed \$20 surcharge, in essence, amounts to a tax increase on businesses. From a policy standpoint, the imposition of the proposed surcharge is inconsistent with the Department's long standing focus of reducing the cost of doing business in Hawaii. The Department understands the revenue picture and that principle must be balanced against the need for additional general fund revenues.

Finally, the bill states that the Legislature believes that fees for business- and commerce-related permits and authorizations have a nexus to the business climate and economic performance of the State. If so, the nexus between these very different business aspects would seem to be directly contrary to each other. For example, it would seem likely that imposition of additional fees and surcharges for business- and commerce-related permits and authorizations would have a negative impact on the business climate especially for small businesses. Inasmuch as the majority of businesses in the State are small businesses, this would likely result in a negative impact rather than a positive impact on the State's business climate and economic performance.

Thank you, for the opportunity to provide testimony on this bill. We respectfully request that this bill be held in this Committee.

# 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 782, SD-1

INTRODUCED BY: Senate Committee on Economic Development and Technology

**BRIEF SUMMARY:** Adds a new section to HRS chapter 92 to provide that between July 1, 2011 and June 30, 2015, a surcharge of \$20 shall be added to every fee charged by: (1) the department of commerce and consumer affairs for the: (a) application, issuance, renewal, or reissuance 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) application for or registration of a trade name, trademark, or service mark; or (e) tax on insurance premiums; (2) the public utilities commission pertaining to the regulation of a public utility or the filing of any document; except a telecommunications carrier that is the carrier of last resort; (3) the department of labor and industrial relations 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; and (4) the department of taxation for the application, issuance, renewal, or reissuance of a license, permit, certificate, or other authorization required under the following taxes: (a) general excise; (b) transient accommodations; (c) rental motor vehicle and tour vehicle; (d) liquor; (e) cigarette and tobacco; (f) liquid fuel; (g) public service company; and (h) banks and financial corporations.

Defines "fee" for purposes of the measure.

No surcharge shall be added to: (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 (DBEDT) special fund between July 1, 2011 and June 30, 2015. Moneys in the special fund shall be expended for the operations of the department, including the salary and fringe benefit costs of department personnel. Transfers any unexpended and unencumbered moneys remaining in the special fund on July 1, 2015 to the general fund.

EFFECTIVE DATE: July 1, 2050

**STAFF COMMENTS:** This measure proposes to impose a surcharge of \$20 on certain fees assessed by the department of commerce and consumer affairs, public utilities commission, department of labor and industrial relations and department of taxation. The proceeds of the surcharge shall be deposited into a DBEDT special fund which shall be used to for the operations of DBEDT including salary and fringe benefit costs of its employees. 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.

Although conjecture, it would appear that the rationale behind this measure is that all of the fees targeted for the surcharge are fees paid by businesses in the state and that somehow these businesses should give a little more to support the department that oversees the development of the business community and the economy as a whole. That is the kind of logic that leads policymakers to believe that taxes can be raised on businesses much as the counties impose higher real property tax rates on non-residential properties while lowering the rates on residential properties. Unfortunately, that added burden on business must be passed on to the customers of those businesses, customers who are consumers of the goods and services those businesses sell. Thus, this proposal represents nothing more than an indirect tax increase on all consumers/taxpayers in the state as well as outside the state for those businesses who export their goods and services.

If lawmakers lack the funds and truly can't fund the department, then raise the income tax so that at least taxpayers know that they are being taken to the cleaners. Hiding a revenue increase in fees paid by businesses is less than honest.

Digested 3/29/11

GOODSILL ANDERSON QUINN & STIFEL

A LIMITED LIABILITY LAW PARTNERSHIP LLP

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**TO:** Senator David Y. Ige  
Chair, Committee on Ways and Means  
Hawaii State Capitol, Room 215  
*Via Email: [WAMTestimony@Capitol.hawaii.gov](mailto:WAMTestimony@Capitol.hawaii.gov)*

**FROM:** Gary M. Slovin

**DATE:** March 29, 2011

**RE:** **H.B. 782, H.D. 2, S.D. 1—Relating to the Department of Business,  
Economic Development, and Tourism  
Hearing: Wednesday, March 30, 2011 at 9:30 a.m. in Room 211**

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Dear Chair Ige and Members of the Committee on Ways and Means:

I am Gary Slovin, testifying on behalf of USAA. USAA, a diversified financial services company, is the leading provider of competitively priced financial planning, insurance, investments, and banking products to members of the U.S. military and their families. USAA has over 82,000 members in Hawaii, the vast majority of which are military-based members.

USAA **opposes** H.B. 782, H.D. 2, S.D. 1, which establishes the Department of Business, Economic Development, and Tourism (“DBEDT”) Operation Special Fund to support operations and imposes a temporary surcharge on certain fees charged by certain departments for deposit into the fund.

Specifically, USAA opposes the portion of this measure in Section 2 that permits the Department of Commerce and Consumer Affairs (“DCCA”) to impose a \$20 surcharge on professional licenses (page 2, lines 12-20). USAA has more than 1200 people licensed in Hawai‘i as nonresident insurance producers, and these licensing fees were already raised dramatically via Act 59, SLH 2010. This measure will exact a significant financial burden on USAA, further increasing the amount of licensing fees paid by USAA by \$24,000 annually.

March 29, 2011  
Page 2

Additionally, it appears Section 2 will impose a surcharge on the tax on insurance premiums (page 2, line 12 through page 3, line 5) and a surcharge on the bank and financial corporations tax (page 3, line 16 through page 4, line 5). This seems to be incorrect.

Thank you for the opportunity to submit comments on this measure.

**SENATE COMMITTEE ON  
WAYS AND MEANS**

March 30, 2011

House Bill 782, HD2, SD1 Relating to the Department of Business,  
Economic Development, and Tourism

Chair Ige and members of the Senate Committee on Ways and Means, I am Rick Tsujimura, representing State Farm Insurance Companies, a mutual company owned by its policyholders.

State Farm OPPOSES House Bill 782, HD2, SD1 Relating to the Department of Business, Economic Development and Tourism to the extent that it attempts to impose any surcharges upon its licenses, fees, renewals and premium tax payments.

House Bill 782, HD2, SD1 is defective in its title by attempting to impose such surcharges upon entities which are regulated by the Department of Commerce and Consumer Affairs. Article III, Section 14 of the Hawaii Constitution states in relevant part:

**Section 14.** No law shall be passed except by bill. **Each law shall embrace but one subject, which shall be expressed in its title.** (emphasis added.)

The reason for this requirement is to avoid surprise. The title of this measure is "RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC DEVELOPMENT, AND TOURISM." The contents of the bill, however, sway far from this mark by attempting to surcharge businesses which have no regulatory connection to the department. Indeed, the contents of the bill make it clear that other departments are collecting this surcharge to fund what is normally funded by the general fund of the state. The policy implications of this bill are far reaching, because if adopted by the legislature and this state, presumably one could surcharge private school students who board public buses a surcharge fee for the department because they benefit from the economy. The nexus is strained logic.

Moreover, the logic is further strained by imposing a surcharge on the payment of premium taxes to the state, a requirement of the state to remain in business, yet it does not impose a similar fee on other tax payments to the state. Such a surcharge we believe is unfair at best and at worst unconstitutionally defective as violative of the equal protection clause.

We urge the committee to hold this measure as it is unfair, and both procedurally and substantively unconstitutional.

Thank you for the opportunity to present this testimony.

TESTIMONY BEFORE THE  
SENATE COMMITTEE ON WAYS AND MEANS

Wednesday, March 30, 2011  
9:30 a.m.

H.B. NO. 782, H.D.2, S.D.1  
RELATING TO THE DEPARTMENT OF BUSINESS, ECONOMIC  
DEVELOPMENT, AND TOURISM.

By Kevin Katsura  
Associate General Counsel, Legal Department  
Hawaiian Electric Company, Inc.

Chair Ige, Vice-Chair Kidani, and Members of the Committee:

My name is Kevin Katsura providing written testimony in opposition to a portion of H.B. No. 782, H.D.2, S.D.1 on behalf of Hawaiian Electric Company, Inc. and our subsidiary companies, Hawaii Electric Light Company, Inc. and Maui Electric Company, Ltd. (collectively, the Hawaiian Electric Companies).

The Hawaiian Electric Companies oppose the language found on page 3 that increases the filing fee a regulated public utility, other than a telecommunications carrier that is the carrier of last resort, must pay for any documents filed with the Public Utilities Commission (PUC).

The utilities already pay a public utility fee that is deposited into the public utilities commission special fund to fund the PUC and the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs (Consumer Advocate). For fiscal year (FY) 2010, the PUC collected \$20.3 million in public utility fees, more than twice the amount needed to fund the PUC and the Consumer Advocate. Then as required by statute, at the end of FY 2010, the PUC transferred to the general fund a total amount of \$15.8 million, representing its special fund excess balance of \$14.7 million plus central service assessments of \$1.1 million.

Electricity is a necessity of modern living, and an increase in fees imbedded in our cost hurts the lower income consumer the most. Although this fee increase is proposed to be in effect for a limited period, until June 30, 2015, Hawaii consumers can ill-afford this additional cost in these tough economic times.

For these reasons, the Hawaiian Electric Companies respectfully request that this measure be amended by deleting the language increasing the PUC filing fee.

Thank you for the opportunity to testify.

# HAWAII FINANCIAL SERVICES ASSOCIATION

c/o Marvin S.C. Dang, Attorney-at-Law

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Honolulu, Hawaii 96812-4109

Telephone No.: (808) 521-8521

Fax No.: (808) 521-8522

March 30, 2011

Senator David Y. Ige, Chair,  
and members of the Senate Committee on Ways and Means  
Hawaii State Capitol  
Honolulu, Hawaii 96813

Re: **House Bill 782, HD 2, SD 1 (Department of Business, Economic Development,  
and Tourism)**  
**Hearing Date/Time: Wednesday, March 30, 2011, 9:30 A.M.**

I am the attorney for the **Hawaii Financial Services Association** ("HFSA"). The HFSA is a trade association for Hawaii's consumer credit industry. Its members include Hawaii financial services loan companies (which make mortgage loans and other loans and which are regulated by the Hawaii Commissioner of Financial Institutions), mortgage lenders, and financial institutions.

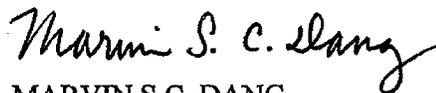
The HFSA **opposes** this Bill as drafted.

This Bill: (1) Establishes the department of business, economic development, and tourism operation special fund to support operations; and (2) Imposes a temporary surcharge on certain fees charged by certain departments for deposit into the fund.

The \$20 fee surcharge mandated under Section 2 of this Bill will have a negative impact on companies that are examined or audited by the Division of Financial Institutions ("DFI") of the Department of Commerce & Consumer Affairs. On page 2, line 21 of this Bill, a \$20 surcharge would be imposed on the examination fee that financial institutions (such as financial services loan companies and state chartered banks) pay to the DFI. Under HRS Chapter 412 (Code of Financial Institutions), the current examination fee is \$40 per hour. The \$20 surcharge would result in an examination fee of \$60 per hour. This would be a 50% increase in these hourly fees which already cost financial institutions tens of thousands of dollars annually.

We ask that you do not pass this bill as drafted because any surcharges on the hourly examination or audit fees will be detrimental to Hawaii financial institutions which need to maintain capital levels and add to reserves.

Thank you for considering our comments.



MARVIN S.C. DANG

Attorney for Hawaii Financial Services Association

(MSCD/hfsa)



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March 30, 2011

**The Honorable David Y. Ige, Chair**  
Senate Committee on Ways and Means  
State Capitol, Room 211  
Honolulu, Hawaii 96813

**RE: H.B. 782, H.D. 2, S.D. 1, Relating to the Department of Business, Economic Development, and Tourism**

**DECISION MAKING: Wednesday, March 30, 2011, at 9:00 a.m.**

Aloha Chair Ige, Vice Chair Kidani, and Members of the Committee:

I am Myoung Oh, Government Affairs Director, submitting written comments on behalf of the Hawaii Association of REALTORS® ("HAR"), the voice of real estate in Hawaii, and its 8,500 members. HAR **opposes** H.B. 782, H.D. 2, S.D. 1, which establishes the DBEDT special fund and imposes a surcharge of \$20 upon every fee charged by certain departments for certain business and commerce related services.

While HAR understands the State's need for new sources of revenue in these tough economic times, the fee increases will impact both the cost of doing business in Hawaii and for real estate licensees to engage in the practice of their business.

These following surcharges are of concern:

- The Department of Commerce and Consumer Affairs for the application, issuance, renewal, or reissuance of a license, permit, or other authorization for a profession, business, or occupation.
- The Department of Taxation for the application, issuance, renewal, or reissuance 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 Bank and Financial Corporation.

The above proposed fees are paid by businesses and individuals who do business here in Hawaii. Hawaii consumers and independent employees can ill-afford this additional cost in these tough economic times.

Mahalo for the opportunity to submit written comments.





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Honolulu, Hawaii 96813  
Telephone (808) 525-5877  
Facsimile (808) 525-5879

**Alison Powers**  
Executive Director

## TESTIMONY OF ALISON POWERS

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### SENATE COMMITTEE ON WAYS AND MEANS

Senator David Y. Ige, Chair

Senator Michelle Kidani, Vice Chair

Wednesday, March 30, 2011

9:30 a.m.

### **HB 782, HD 2, SD 1**

Chair Ige, Vice Chair Kidani, and members of the Committee, my name is Alison Powers, Executive Director of Hawaii Insurers Council. The Hawaii Insurers Council is a non-profit trade association of property and casualty insurance companies licensed to do business in Hawaii. Member companies underwrite approximately 40% of all property and casualty insurance premiums in the state.

Hawaii Insurers Council **opposes** HB 782, HD 2, SD 1, which would create a new special fund for the operation of the Department of Business, Economic Development and Tourism (DBEDT) to be funded by assessing a \$20.00 surcharge on various fees charged by the Department of Commerce and Consumer Affairs (DCCA), Public Utilities Commission, Department of Labor and Industrial Relations and the Department of Taxation.

Hawaii Insurers Council opposes HB 782, HD 2, SD 1 on several grounds. First, as a matter of fundamental fiscal policy, the special fund proposed in this bill does not meet the statutory criteria set forth in Hawaii Revised Statutes §37-52.3 for the establishment of special funds. Specifically, §37-52.3 provides that the Legislature, in establishing special funds, is to ensure that such funds reflect "a clear nexus between the benefits sought and charges made upon the users or beneficiaries of the program, as opposed to serving primarily as a means to provide the program or users with an automatic means of support that is removed from the normal budget and appropriation process."

The disproportionate and diverse impact of the \$20 surcharge proposed in HB 782, HD 2, SD 1 is so diverse and far ranging that it is difficult to discern any direct nexus to the users or beneficiaries of programs administered by DBEDT. The new special fund that would be created by this bill also fails to meet the additional criteria set forth in §37-52.3 of providing “an appropriate means of financing for the program or activity; and [demonstrating] the capacity to be financially self-sustaining.” Accordingly, the special fund proposed in this bill is fundamentally flawed and contrary to the statute governing the establishment of special funds.

It is relevant to note that the \$20 surcharge proposed in HB 782, HD 2, SD 1 would have a disproportionate impact on the property and casualty insurance industry by imposing the surcharge on all insurance-related licensees, including insurers, agents, adjusters and bill reviewers, as well as imposing an additional \$20 surcharge on the “tax on insurance premiums.” This \$20 surcharge would be on top of a new tax just imposed on the insurance industry. Act 59, 2010 (HB 1985, SD 1, CD 1) doubled all statutory fees for the insurance industry in a separate tax for four years. The property and casualty insurance industry in Hawaii already pays substantial government imposed fees and taxes, including the highest premium tax rate for property and casualty insurance in the nation. In addition to a very high premium tax, which goes into the state general fund, property and casualty insurers are also required to pay an annual assessment to the CRF, as well as underwriting the cost of the Workers’ Compensation Special Compensation Fund, the Hawaii Joint Underwriting Plan, the Hawaii Property Insurance Association and the Hawaii Insurance and Guaranty Association. Simply stated, the property and casualty insurance industry in Hawaii is already paying more than its fair share to regulate itself and support the operations of the DCCA. To impose the additional expense of multiple \$20 surcharges contemplated in this bill would be grossly unfair to the insurance carriers doing business in this state and the consumers and businesses they serve who would ultimately bear this additional expense.

For the foregoing reasons Hawaii Insurers Council respectfully requests that HB 782, HD 2, SD 1 be held.

**Natalie J. Iwasa, CPA, Inc.**  
**1331 Lunalilo Home Road**  
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TO: Committee on Ways and Means

DATE: 9:30 a.m. Wednesday, March 30, 2011

RE: HB782, HD2, SD1 Relating to New Fees for DBEDT - **OPPOSE**

Aloha Chair Ige, Vice Chair Kidani and Members of the Committee,

This bill would impose new fees on small businesses and nonprofit organizations. I am a sole practitioner with no assistants. I already pay fees for an individual CPA license, individual permit, firm permit and annual registration of my corporation. Last year the IRS came out with a new annual fee as well. In addition, I am known as "Bike Mom" and will be paying fees to register that name. The renewals related to all of these state registrations, licenses and permits would be assessed a \$20 surcharge under this bill.

My revenue is down 30% from last year due. Out of about 35 clients, two (one small business, one charitable organization) are on the brink of bankruptcy. All of these fees add up and are especially hard on small businesses. Given the recent earthquake and crisis in Japan and its expected negative impacts on Hawaii, this is not the time to institute new fees.

**I urge you to vote "no" on this bill.**