DAVID Y. IGE
GOVERNOR

CRAIG K. HIRAI
DIRECTOR

ROBERT YU
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON FINANCE
ON
SENATE BILL NO. 75, S.D. 2, PROPOSED H.D. 1

May 11, 2020
2:00 p.m.
State Capitol Auditorium

RELATING TO APPROPRIATIONS

The Department of Budget and Finance (B&F) provides the following comments regarding Senate Bill (S.B.) No. 75, S.D. 2, Proposed H.D. 1.

S.B. No. 75, S.D. 2, Proposed H.D. 1, appropriates funds received from the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) to the counties of Hawaiʻi, Kauaʻi and Maui, various State departments and the Office of the Governor for the public health response to the coronavirus disease 2019 (COVID-19) and deposits the balance of the CARES Act funds to the Emergency and Budget Reserve Fund (EBRF). This bill also authorizes the issuance of instruments of indebtedness in the amount of $2,100,000,000 for the purpose of municipal liquidity facility (MLF) under Section 13(3) of the Federal Reserve Act.

B&F has serious concerns regarding the deposit of the CARES Act funds to the EBRF due to the statutory requirements currently set forth by Section 328L-3(f) of the Hawaiʻi Revised Statutes:

- Section 328L-3 (f)(1): the Legislature shall not appropriate from the EBRF more than 50% of the total balance of the fund in a fiscal year.
- Section 328L-3 (f)(2): the Legislature shall not appropriate from the EBRF more than 10% of total discretionary funds appropriated by the Legislature in the same fiscal year for which EBRF moneys are appropriated.
- Section 328L-3 (f)(3): the Legislature shall not appropriate from the EBRF any amount in the succeeding fiscal year unless the State has collected or is projected to collect less general fund tax revenue in the current fiscal year compared to the immediately preceding fiscal year.

These constraints (under the current provisions of Section 328L-3(f)) will severely limit the State's ability to spend the CARES Act funds by December 30, 2020. Under the CARES Act provisions and current guidance issued by the U.S. Department of Treasury, these funds <u>must be spent</u> (encumbrances do not qualify under the Treasury guidance) by December 30, 2020 and any unexpended funds are to be returned to the federal government.

Because CARES Act funds not expended by December 30,2020 must be returned to the federal government, the lapse date (June 30, 2021) specified in Section 14 of the bill may be problematic. A situation could arise where funding is either spent outright or through an encumbrance after December 30, 2020 that will subsequently need to be returned to the federal government.

In addition, there appears to be a drafting error in that the total of the CARES Act appropriations and the allocation to the EBRF exceeds the amount received by the State ($862,823,978.80 in Coronavirus Relief Funds) by $300,000.

With regards to the MLF provision, any borrowing by the State for its own use and/or on behalf of the Neighbor Island counties are general obligations of the State under Section 12, Article VII, of the Constitution of the State of Hawai‘i. As such, the authorization of $2,100,000,000 must be accounted for in the general obligation bond authorization bill, H.B. No. 1631.

To use the MLF, the State would need to certify that it is unable to secure adequate credit accommodations from other banking institutions. In order to pursue these other options, the authorization in the bill should be broadened to allow the State to borrow as provided by Chapter 39, HRS, to fund operating costs. Eligible notes issued by the State to the Federal Reserve in connection with any borrowings from the MLF will include a penalty rate.

It is important to note that an authorization of a short-term obligation of this size may exceed the State’s debt limit under Section 13, Article VII, of the Constitution of the State of Hawai‘i. Furthermore, debt service payments for an obligation of this size may be extremely challenging to accommodate in the general fund financial plan given the significant general fund revenue shortfalls that are anticipated.

Thank you for your consideration of our comments.