

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

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DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
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OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
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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 SENATE COMMITTEE ON WAYS AND MEANS
ON
SENATE BILL NO. 2322, S.D. 1

February 20, 2020
1:00 P.M.
Room 211

RELATING TO CERTIFICATES OF PARTICIPATION.

The Department of Budget and Finance (the "Department") offers the following comment on Senate Bill No. 2322, S.D. 1, which prohibits the Department from issuing any Certificates of Participation (COPs) that exceeds \$10 million. This bill will take away the Department's flexibility by reducing the financing options available to the Department for the acquisition of real or personal property.

Thank you for your consideration of our comments.

SB-2322-SD-1

Submitted on: 2/19/2020 10:13:56 AM

Testimony for WAM on 2/20/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Sidney Lynch	Testifying for Protect Our Ala Wai Watersheds	Support	No

Comments:

Protect Our Ala Wai Watersheds

Sidney Lynch

Testimony: In Support of SB2322

Attn: Sen. Dela Cruz and Ways & Means Committee

Feb. 19, 2020

The authority and capability to obtain funds for state and city projects for Hawaii must rest solely with the Hawaii State Legislature. Neither the governor, nor any one person or entity, should have an avenue to circumvent the legislature to obtain funding. Decisions regarding financial issues need to be made under public scrutiny and this is accomplished thru the democratically elected legislative process.

If the kind of loopholes such as the certificates of participation are allowed to continue, then there should be caps on the amount of funding accessible thru that process. During the September 2019 city council meeting regarding resolution 19-182, it was astounding to learn the governor could access \$125 million dollars for a project without legislative approval. The funds for this very project had already been turned down by the 2019 legislature. The request was for \$125 million but it could well have been for \$500 million or any other amount.

Once these COPS were issued, the legislature would have no choice but to fund them in the next legislative session as defaulting would not be a possibility due to the threat to the state's good bond rating. In fact, this process is not only a circumvention of the legislative process, it is form of blackmail of the legislature.

Our group fully supports SB2322 and thank the legislators who sponsored the bill.

Protect Our Ala Wai Watersheds

Sidney Lynch

President

sjlkenjoinc@hawaii.rr.com

841-8282



SIERRA CLUB OF HAWAI'I

SENATE COMMITTEE ON WAYS AND MEANS

February 20, 2020 1:00 PM Room 211

In SUPPORT of SB2322 SD1: Relating to Certificates of Participation

Aloha Chair Dela Cruz, Vice Chair Keith-Agaran, and committee members,

On behalf of our 20,000 members and supporters, the Sierra Club of Hawai'i **strongly supports SB2322 SD1** Relating to Certificates of Participation.

This bill prohibits the department of budget and finance from issuing any certificate of participation exceeding \$10 million. This restriction is necessary to prevent the Governor from bypassing the legislative process for appropriating funds for major projects, as was attempted in the case of the proposed Ala Wai Canal Flood Control project.

Thank you very much for this opportunity to provide testimony in support of **SB2322 SD1**.

Mahalo,

Dave Raney
Co-Chair
Sierra Club Climate Adaptation and Restoration Team

TESTIMONY IN SUPPORT OF SB2322

Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the Senate Ways and Means Committee:

I write in support of SB2322. I would also like to offer a friendly amendment. This bill prevents the State agencies from issuing a certificate of participation (COP) under Chapter 37D that exceeds \$10 million.

I am an officer in an organization, Protect Our Ala Wai Watersheds, which could directly benefit by passage of this bill. Our organization seeks to promote eco-friendly alternatives to the Army Corps' current flood mitigation project for the Ala Wai Watershed and to encourage the Army Corps to seriously consider those alternatives.

Last year the Governor requested an appropriation of \$125 million to fund the local sponsor's portion of the flood management project's cost (SB77 (2019)). Partially due to significant public opposition, the Legislature declined his request. Undeterred, the Governor instructed the Department of Budget and Finance to fund the project through a financing agreement under Chapter 37D. Specifically, B & F began a process to sell COPs in November of 2019.

Our organization sued to stop the sale. The court agreed with us and enjoined the State from selling the COPs before the state environmental impact statement had been approved. A few days after that October 29 decision, the Mayor of Honolulu informed the Governor that he could not approve the EIS and that certain aspects of it had to be re-done. That stopped the sale.

But we believe that the Governor still intends to finance the project by selling COPs once the Mayor approves the revised EIS. This bill's enactment would help to prevent that.

We have recently received information that the Army Corps has given the City and the State a new deadline of March 15 to find the money and to sign on as a local sponsor of the Project. The State does not appear to have requested an appropriation for the Project this session; therefore, issuing COPs seems to be the only alternative. If the COPs process were started up again, it would not be halted by this bill unless SB2322 were amended to be effective on January 1, 2020.

We are requesting that friendly amendment because you do not want the Governor to be able to fund a \$125 million project without the prior approval of the Ways and Means Committee.

In addition, this bill deserves support for two broader reasons:

1. The Legislature, especially the Ways and Means and Finance Committees need to take back control of the purse strings. As B & F interprets Chapter 37D, it can decide to enter into a financing agreement to sell COPs and then come to the Legislature afterwards for an appropriation. If the Legislature chose not to make the appropriation, the State's bond rating would be negatively impacted. A ten million-dollar limit would allow the

executive branch access to money for unanticipated contingencies. For anything above that amount, the legislature needs to approve an appropriation.

2. The Legislature is the proper vehicle to consider sizable appropriations because public hearings are required. Without public hearings the public could be entirely shut out of the decision-making process.

Thank you.

Elton T. Fukumoto, Secretary
Protect Our Ala Wai Watersheds

SB-2322-SD-1

Submitted on: 2/19/2020 11:40:59 PM

Testimony for WAM on 2/20/2020 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Sharlene Chun Lum	Testifying for Save Ala Moana Beach Park Hui	Support	No

Comments:

We strongly support SB2322 SD1 Relating to Certificates of Participation.

This bill prohibits the department of budget and finance from issuing any certificate of participation exceeding \$10 million. This restriction is necessary to prevent the Governor from bypassing the legislative process for appropriating funds for major projects, as was attempted in the case of the proposed Ala Wai Canal Flood Control project.

The authority and capability to obtain funds for state and city projects for Hawaii must rest solely with the Hawaii State Legislature. Neither the governor, nor any one person or entity, should have an avenue to circumvent the legislature to obtain funding. Decisions regarding financial issues need to be made under public scrutiny and this is accomplished thru the democratically elected legislative process.

Thank you very much for this opportunity to provide testimony in support of SB2322 SD1.

SB-2322-SD-1

Submitted on: 2/18/2020 9:04:42 PM

Testimony for WAM on 2/20/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Winona T Holmes	Individual	Support	No

Comments:

Dear Chairman Senator Dela Cruz,

My name is Nona Holmes and I wholeheartedly support bill SB2322. As a member at large of the Protect Our Ala Wai Watersheds group, I got to witness first hand what COPS (Certificates of Participation) were and how they would be used to fund the state's share of the \$125 million requested by Governor Ige to fund the Ala Wai Flood Mitigation project. This was after the legislature had turned down his request for funding which was needed to continue the project. I believe the people of Hawaii deserve to know that their governor was trying to circumvent or do an end run around the Legislature when he didn't get his way.

I was also very surprised to how infrequently COPS were used prior to this. It was my understanding that prior COPS were used to fund a completely different type of project like transportation and nothing of this magnitude. Also there should be a cap as to the amount of monies allowed for COPS.

Thank you for allowing me to voice my opinion. We need to have this bill passed.

Mahalo,

Nona Holmes

SB-2322-SD-1

Submitted on: 2/19/2020 10:21:03 AM

Testimony for WAM on 2/20/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Drew T Matsumoto	Individual	Support	No

Comments:

Aloha Chair Dela Cruz and Committee,

The legislature needs to control large expenditures. Please restrict the amount that COPS can be issued for. I support this bill.

Drew Matsumoto

SB-2322-SD-1

Submitted on: 2/19/2020 10:22:02 AM

Testimony for WAM on 2/20/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Nanea Lo	Individual	Support	No

Comments:

Hello,

My name is Nanea Lo. I am a lifelong resident of Hawai'i on O'ahu. I am writing in to say that I support this bill.

Please support this bill too.

me ke aloha 'Ä• ina,

Nanea Lo

SB-2322-SD-1

Submitted on: 2/19/2020 10:23:48 AM

Testimony for WAM on 2/20/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Mary Mitsuda	Individual	Support	No

Comments:

I support SB2322.

Aloha, Mary Mitsuda

SB-2322-SD-1

Submitted on: 2/19/2020 10:24:30 AM

Testimony for WAM on 2/20/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Matson	Individual	Support	No

Comments:

SB-2322-SD-1

Submitted on: 2/19/2020 11:59:58 AM

Testimony for WAM on 2/20/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Jennifer Wong	Individual	Support	No

Comments:

We support SB2322 because the Governor's office should not be solely in charge of financing large public works projects without the oversight of the legislature. The more checks and balances involved in making these financing decisions the better.

Thank you for your consideration.

Respectfully submitted,

Jordan and Jennifer Wong

LATE

SB-2322-SD-1

Submitted on: 2/19/2020 3:36:56 PM

Testimony for WAM on 2/20/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
alexander hubbard	Individual	Support	No

Comments:

I support SB2322. The State should be prohibited from issuing certificates over 10 million dollars.

SB-2322-SD-1

Submitted on: 2/19/2020 4:54:42 PM

Testimony for WAM on 2/20/2020 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Dave Watase	Individual	Support	No

Comments:

Aloha Chair Dela Cruz and Senators

My name is Dave Watase, I am a long time resident of Honolulu and a registered voter. I support SB222 SD1. For over a year, I've been opposed to the USACE Ala Wai Flood Risk Management Project. The USACE's Final EIS was done without engaging the community and stakeholders and is deficient in several major ways as stated in Mayor Caldwell's October 2019 letter returning the EIS as it was unacceptable. In October, Protect Our Ala Wai Watersheds (POAWW) won a temporary injunction that prevented the Governor from selling COPS to fund the Ala Wai Flood Risk Management Project until the Final EIS under HEPA was accepted.

The issue was that Governor Ige attempted to bypass the Legislature in funding the \$125 million partner portion for the Ala Wai Flood Risk Management Project through Certificates of Participation. By way of a Memorandum of Agreement between the State and City, the Governor was to provide the Mayor with \$125 million so that the City could partner with the USACE. If not for POAWW winning their lawsuit, the Mayor would have signed the Project Partnership Agreement and thereby attaching the existing unwanted elements of the project to the Federal Funds.

The USACE recently stated verbally that based on their updated modeling the detention basins in Manoa Valley and Makiki did not protect the residents from flooding and that Palolo Valley did not require detention basins. Currently on the table are the removal of at least 5 upstream detention basins and possibly 6. This has forced the USACE to look at alternatives which include conveyance vs detention and pushes the amount of stormwater further down stream and closer to the Ala Wai Canal. Most likely these changes will also trigger major changes to the use of the Ala Wai Golf Course detention basin and changes to the proposed reinforced concrete wall around the Ala Wai Canal. Ultimately, we believe the better alternative and solution is the flood gate and flood pump system.

In any event, the USACE original plan was defective and flawed, the State and City would have illegally spent money without an accepted Final EIS. SB2322 SD1 will prevent the Governor from bypassing the Legislature. Please vote to support SB2322 SD1.

Mahalo,

Dave Watase

SB-2322-SD-1

Submitted on: 2/19/2020 5:41:59 PM

Testimony for WAM on 2/20/2020 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Wilma Youtz	Individual	Support	No

Comments:

SB2322 serves to curtail the circumvention of the will of the people and the legislature. It prevents the Governor from undermining the wishes of residents and misusing taxpayer dollars through Certificates of Participation to fund projects that the public clearly opposes. No one, rogue government official should be able to override the will of the people, duly elected officials, and the legislative committees on which they serve.

Please vote YES on SB2322.

Mahalo,

Wilma Youtz, P.O. Box 10273, Honolulu, HI 96816-0273

SB-2322-SD-1

Submitted on: 2/19/2020 7:28:33 PM

Testimony for WAM on 2/20/2020 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Teri L Skillman	Individual	Support	No

Comments:

Aloha,

I am writing in SUPPORT of SB2322 SD1. The governor should not be allowed to request funds to support a project that was rejected by the legislature. Decisions to request large sums of funding should be reviewed and approved by the Legislature prior to signing an agreement. It is very scary that this level of public financial indebtedness is currently accessible to the governor without any oversight or restriction.

The State Legislature needs to retain its power of approval as given by our Constitution.

Mahalo,

Teri Skillman

SB-2322-SD-1

Submitted on: 2/19/2020 7:58:24 PM

Testimony for WAM on 2/20/2020 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Bruce	Individual	Support	No

Comments:

Aloha honorable Chair Cruz, Vice-Chair Keith-Agaran and committee members,

For the record, my name is Bruce Lum and **I strongly support the right of the taxpayers of Hawai'i to be represented by their state legislative body, in any authorization that exceeds \$10 Million dollars acquired by Certificate of Deposits (Bonds). As such, I strongly support SB2322 SD1 and I enthusiastically recommend the Senate Ways and Means Committee to adopt SB2322 SD1.**

I appreciate the opportunity to testify before you and mahalo for your kind attention.

Mahalo nui,

-bruce lum-

LATE

SB-2322-SD-1

Submitted on: 2/19/2020 8:41:32 PM

Testimony for WAM on 2/20/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Christine Otto Zaa	Individual	Support	No

Comments:

As a taxpayer and lifelong resident of Hawai'i, I strongly support SB2322 SD1 and humbly request the Senate Ways and Means Committee to adopt SB2322 SD1. Mahalo!

Christine Otto Zaa

SB-2322-SD-1

Submitted on: 2/19/2020 9:27:37 PM

Testimony for WAM on 2/20/2020 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Constance Keoahunui Uale Warrington	Individual	Support	No

Comments:

I strongly support the right of Hawaii taxpayers to be represented by their State Legislative Body in ANY and ALL authorizations that EXCEED \$10 Million dollars required by Certificate of Deposits (Bonds). Therefore, I strongly support SB2322 SD1 and I enthusiastically recommend that the Senate Ways and Means Committee ADOPT SB2322 SD1.

Mahalo,

Constance Keoahunui Uale Warrington

SB-2322-SD-1

Submitted on: 2/19/2020 9:38:56 PM

Testimony for WAM on 2/20/2020 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Napualani Wong	Individual	Support	No

Comments:

SB-2322-SD-1

Submitted on: 2/19/2020 9:59:42 PM

Testimony for WAM on 2/20/2020 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Kate Paine	Individual	Support	No

Comments:

A cap on issuance of debt certificates is good fiscal planning. Plz approve this measure.

LATE

SB-2322-SD-1

Submitted on: 2/19/2020 10:19:32 PM

Testimony for WAM on 2/20/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lisa-ann Pang	Individual	Support	No

Comments:

I strongly support SB2322 SD1 that would prohibit the Department of Budget& Finance from issuing any certificate of participation that exceeds \$ 10 million. I strongly recommend the Senate Ways & Means Committee adopt SB2322 SD 1. Thank you for this opportunity to submit testimony in support of SB2322 SD1.

SB-2322-SD-1

Submitted on: 2/19/2020 11:42:50 PM

Testimony for WAM on 2/20/2020 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Penelope Hazzard	Individual	Support	No

Comments:

SB-2322-SD-1

Submitted on: 2/20/2020 5:58:36 AM

Testimony for WAM on 2/20/2020 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Bianca Isaki	Individual	Support	No

Comments:

I strongly support the right of the taxpayers of Hawai'i to be represented by their state legislative body, in any authorization that exceeds in \$10 Million dollars acquired by Certificate of Deposits (Bonds). As such, I strongly support SB2322 SD1 and I enthusiastically recommend the Senate Ways and Means Committee to adopt SB2322 SD1.

SB-2322-SD-1

Submitted on: 2/20/2020 7:10:01 AM

Testimony for WAM on 2/20/2020 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Patrice Choy	Individual	Support	No

Comments:

I support SB2322.

The People's voice must be heard on this issue and the governor cannot make unilateral decisions.

SB-2322-SD-1

Submitted on: 2/20/2020 7:13:06 AM

Testimony for WAM on 2/20/2020 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Lei Ho	Individual	Support	No

Comments:

Aloha Honorable Chair dela Cruz and Committee members,

Because I feel that the US Corps of Engineers has not done an adequate job of exploring options on the Ala Wai Watershed project and because I am alarmed that a measure could bypass the approval of Sylvia Luke and the rest of the Legislature and even if a \$10 million limit is far too reckless an amount to be awarded without proper approval on my behalf, I support SB2322 SD1 and ask that your Committee does so as well.

Thank you for all that you do for us citizens,

Lei Ho

SB-2322-SD-1

Submitted on: 2/20/2020 8:15:06 AM

Testimony for WAM on 2/20/2020 1:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
DIANE CHOY FUJIMURA	Individual	Support	No

Comments:

I support the Hawaii State Legislature to authorize amounts exceeding \$10 million acquired by Certificate of Deposits (bonds).

LATE

SB-2322-SD-1

Submitted on: 2/20/2020 9:16:28 AM

Testimony for WAM on 2/20/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Darryl	Individual	Support	No

Comments:

To Chair Dela Cruz,

I support SB2322. The people of this state must have a say, especially when large amounts of tax payer money are involved. The legislature must have control of the budgeting process.

There are processes in place to assure that things get done properly.

I hope you pass SB2322.

Mahalo

LATE

SB-2322-SD-1

Submitted on: 2/20/2020 9:19:26 AM

Testimony for WAM on 2/20/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
marg knight	Individual	Support	No

Comments:

I support the right of the taxpayers of Hawaii to be represented by their State Legislative body, in any authorisation that exceeds \$10 million dollars acquired by bonds. I strongly urge and ask that the Senate Ways and Means committee to adopt SB 2322 SD1

Mahalo

LATE

SB-2322-SD-1

Submitted on: 2/20/2020 9:35:48 AM

Testimony for WAM on 2/20/2020 1:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Audrey Lee	Individual	Support	No

Comments:

If the Legislature does not think this is a good idea, the Governor should not over ride their decision. In this case, this is especially important since the reason for the Governor trying to get the bond funding is particularly weak and at the same time, weakens our State and does not help the issue of funding for the Ala Wai Project as he thinks it will. I have been following the Ala Wai Watershed Project carefully and going to many City Council meetings, public informational meetings, and talked with Jeff Herzog personally at various events on the Army Corps perspective and his role in carrying out the project. Please support this bill as the "deadline" which is being stated as the reason for rushing to use bond funding has been changed 5x already and is more of a political tool rather than an actual deadline. More work needs to be done to specify the actual plan to be used for the project before locking in a timeline for a plan that will not be helpful to saving the areas being targeted by flooding. Please, please, please allow the Ala Wai Watershed project to have a plan that will actually work and not just throw a bunch of money at something that will not even be helpful. As of last night at the Kaimuki NB meeting, a report on this project was given and the Army Corps had discovered that two of the watersheds they had planned for would actually not be helpful at all in a flood situation. So, they are now working on other ideas that might work. If we lock the plan they have now in place with funding, that important work will not be done. Please support this Bill SB2322 SD1 so that the Army Corps and the People of Hawaii can have a win win situation. Why did the Governor decide to over ride the Legislature? Possibly due to pressure by the Mayor who did not understand the situation and acted on fear as he said in the City Council where he pleaded with the Council to pass a Resolution to ok a go ahead promising that he would get the Governor to use bond funding the next day when they met.

Thank you for listening and please support this Bill.