



HAWAII

STATE FOUNDATION on
CULTURE and the ARTS

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TESTIMONY OF THE STATE FOUNDATION ON CULTURE AND THE ARTS

TO THE COMMITTEE ON WAYS AND MEANS

April 5, 2023 Conference Room 211 & Videoconference at 10:00AM

H.B. 475 H.D.1., S.D.1

RELATING TO THE STATE FOUNDATION ON CULTURE AND THE ARTS

Chair Dela Cruz and members of the Committee, the State Foundation on Culture and the Arts (SFCA) is pleased to offer testimony in **SUPPORT** of H.B. 475 H.D.1., S.D.1.

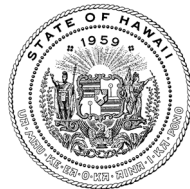
SFCA supports the establishment of an art in private places and performing arts committee to be placed in the State Foundation on Culture and the Arts as described in H.B. 475 H.D.1, S.D.1.

The performing arts, including cultural presentations are an important part of Hawaii's creative economy. Incorporating a mechanism into the SFCA's guiding legislation is a step toward increasing support for this sector. Making "the arts" more publicly accessible may be a benefit of an art in private places program as proposed in H.B. 475 H.D.1, S.D.1.

The SFCA welcomes the opportunity to explore how best to serve the community by expanding our role contingent on a general fund appropriation that would support a dedicated art in private places and performing arts program and establishment of a permanent position to facilitate the programs.

Thank you for the opportunity to provide comments on this matter.

JOSH GREEN, M.D.
GOVERNOR



LUIS P. SALAVERIA
DIRECTOR

SABRINA NASIR
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
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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT

WRITTEN ONLY

TESTIMONY BY LUIS P. SALAVERIA
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE SENATE COMMITTEE ON WAYS AND MEANS
ON
HOUSE BILL NO. 475, H.D. 1, S.D. 1

**April 5, 2023
10:00 a.m.**

Room 211 and Videoconference

RELATING TO THE STATE FOUNDATION ON CULTURE AND THE ARTS

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill (H.B.) No. 475, H.D. 1, S.D. 1, amends Chapter 9, HRS, to add two new sections to establish: 1) the Art in Private Places and Performing Arts (APPPA) Committee within the State Foundation on Culture and the Arts (SFCA); 2) the APPPA pilot programs to select, review, and fund grant proposals for performing arts events; and 3) the Performing Arts Special Account (PASA) to be used for the coordination, planning, promotion, marketing, and execution of performing arts events, provided that not more than an unspecified percent shall be used for administrative expenses.

H.B. No. 475, H.D. 1, S.D. 1, also clarifies the scope of SFCA's responsibilities to include administration of the Performing Arts Pilot Program and appropriates an unspecified amount in general funds for FY 24 and FY 25 to SFCA for the APPPA pilot programs and the establishment of 1.00 full-time equivalent permanent position for purposes of this measure.

It is unclear if the PASA is intended to be a special fund. If so, as a matter of general policy, B&F does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work, and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding H.B. No. 475, H.D. 1, S.D. 1, it is not clear if the PASA would be self-sustaining as there is no defined revenue source for the special fund.

Thank you for your consideration of our comments.



HAWAII FOREST INDUSTRY ASSOCIATION (HFIA)

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Date: 04/01/2023

TO: WAM Chair Dela Cruz, Vice Chair Keith-Agaran and WAM Committee Members

FROM: the Hawai'i Forest Industry Association (HFIA)

SUBJECT: In Support of HB475 HD1 SD1 Relating to the State Foundation on Culture and the Arts

Dear Chair Dela Cruz and Committee Members,

On behalf of the Directors and members of the Hawai'i Forest Industry Association (HFIA), please support HB475 HD1SD1 Relating to the State Foundation on Culture and the Arts.

HFIA has been fortunate enough to receive funding for our flagship event, Hawaii's Woodshow, through the SFCA in the past. We recognize the value that the arts and culture brings to Hawaii's communities including performing arts.

HFIA is in support of HB475 HD1 SD1 Relating to the State Foundation on Culture and the Arts.

Mahalo for your time and consideration,

Guy Cellier

Guy Cellier, Acting President

Hawaii Forest Industry Association

Established in 1989, HFIA's is a nonprofit organization founded by people committed to sustainable forest management. HFIA's mission is to promote healthy and productive forests and a sustainable forest industry through management, education, planning, information exchange, and advocacy. HFIA has over 120 members including woodworkers, landowners, sawyers, foundations, foresters, growers, educators, environmentalists, architects, millers, ranchers, and others interested in HFIA's mission and goals.

HFIA Board of Directors

Officers: Acting President/Vice-President Guy Cellier, Secretary Peter D. Simmons, Treasurer Wade Lee
Directors: Thomas Calhoun, Jeremy Campbell, Aaron Hammer, Nickolas Koch, Tai Lake, Michael Sowards, Irene Sprecher, Michael Tam, Jorma Winkler, Ron Wolfe, Aileen Yeh

HB-475-SD-1

Submitted on: 4/3/2023 11:29:21 AM

Testimony for WAM on 4/5/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
DANELLE WATSON	Testifying for Alexander Academy Performing Company	Support	Written Testimony Only

Comments:

We are in complete support of supporting Art in Private Places and Arts and Performing Arts Pilot programs. This will make more culture and art more available on our island. We see the value and need for this to be supported.

HB-475-SD-1

Submitted on: 4/3/2023 11:42:23 AM

Testimony for WAM on 4/5/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Robert Douglas	Individual	Oppose	Written Testimony Only

Comments:

The bill as written is ambiguous in regards to the performing arts budget it's percentage of the total arts budget. The outer islands are already poorly supported compared to Oahu.

The second issue is private spaces must exclude privately owned spaces. This program should not benefit corporations or wealthy individuals.

HB-475-SD-1

Submitted on: 4/3/2023 1:28:07 PM

Testimony for WAM on 4/5/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Cards Pintor	Individual	Support	Written Testimony Only

Comments:

Aloha,
I support this bill.
Mahalo nui,
Cards Pintor

HB-475-SD-1

Submitted on: 4/4/2023 7:43:42 AM

Testimony for WAM on 4/5/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Lynn Young	Individual	Support	Written Testimony Only

Comments:

I support all three bills: HB 478, HB475, and HB473.

HB-475-SD-1

Submitted on: 4/4/2023 8:29:09 AM

Testimony for WAM on 4/5/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Robert Pollock	Individual	Support	Written Testimony Only

Comments:

This is testimony to support the Arts in Private Places program.

The pandemic hit the arts community very hard. According to one report, “nowhere has the effect been more direct, deep, and immediate than on the performing arts.”

The Arts in Private Places program will help revive the Arts in Hawai’i. Once again the Arts will be a powerful driving force for our economy. According to an authoritative report, “the production of arts and cultural goods (pre-pandemic) and services in the U.S. added **4.3 percent** directly to the nation’s GDP, for a total approaching a trillion dollars (**\$919.7 billion**). This amount is greater than the value added by such industries as construction, transportation and warehousing, mining, and agriculture.”

According to another study, each \$1 in state arts funds leverages over \$3 in state and local revenue.

Einstein said that intelligence is not measured by knowledge but by **imagination**. Vital Creative Artists are essential for a thriving, spiritually healthy community. The Arts cultivate, inspire, induce, stimulate, and foster our IMAGINATION. For example, the Honolulu Rail Transit project has languished for many years not primarily because of funding, domain, and political issues. Its failure of completion is because of a fundamental lack of imagination. We need the Arts to help us dream and then act upon our dreams for the future. The stronger our imagination, the more detailed, complex, proactive and powerful will be our vision.

Please help re-vitalize our state after the pandemic with the Arts in Private Places program. Help fight the stifling, crass commodification and corporatization of our lives by your support of non-conforming, independent minded artists in our community. Their art, music, dance, plays, and poetry enable our imagination to reach its full glory!

Testimony to the COMMITTEE ON WAYS AND MEANS
April 5, 2023 Conference Room 211 & Videoconference at 10:00 a.m.

H.B. 475 H.D.1, S.D.1
Relating to the State Foundation on Culture and the Arts

Chair Dela Cruz and members of the Committee, I am pleased to offer COMMENTS on H.B. 475 H.D.1, S.D.1

I am Sherman Warner, a resident of Waimea on Hawaii Island. After earning a degree in theatre from the University of Hawaii in 1968, I spent more than 30 years working in professional theatre. I have worked at not-for-profit theatres and was a founding partner of a highly regarded not-for-profit theatre in New York City. I was a founding partner a major, multi-Tony Award winning Broadway producing and management company. In retirement, I served on the board of direction of the Kahilu Theatre. I have also served two terms as a commissioner with the Hawaii State Foundation on Culture and the Arts.

I strongly support funding performing arts both because of my passion for the performing arts and because I understand that data show that the performing arts create healthy communities and are an economic driver for the wider economy. I support the underlying intent of this bill, however I believe that it is flawed in many respects.

Regarding the proposed Art in Public Places and Performing Arts Committee:

- The Hawaii State Foundation on Culture and the Arts (SFCA) has the expertise and fifty years of experience in placing art in state buildings. Expanding the permissible venues for placing art to include private places doesn't require a new committee. Legislative authorization is needed to allow SFCA to place art in those spaces and, most importantly, additional funding is required to enable the understaffed Art in Public Places Program staff to take on this additional workload.
- If it must exist outside of the SFCA, the committee charged with establishing a performing arts program should include more than two members representing the performing arts community. If not the entirety of the committee, which I would support, representatives of the performing arts community should be a clear majority that represents the full range of the performing arts.
- The committee should be solely for establishing the goals for support of the performing arts, and then it should be disbanded and responsibility for implementation of that program should be placed within the SFCA, where it properly belongs.
- Soliciting proposals for performing arts grants should be the responsibility of experts at the SFCA who have expertise in this process, not a newly formed committee.

- The committee should not review grant proposals and select proposals to be funded. The SFCA has expertise in this area and should administer this program in a manner that is consistent with its other grant programs.
- SFCA has a well-established process for assembling grant panels comprising members of the public with area expertise, creating scoring rubrics, and assuring that the process is transparent and fair. As a SFCA commissioner, I have facilitated many grant panel meetings, and I can assure you that one of the most rewarding experiences in my eight years of service was observing this grant-making process in action
- The proposed committee that this bill establishes would give the SFCA Executive Director, as a member of the committee, a vote in awarding grants. This is a power that no one on the SFCA staff, including the Executive Director, currently has. It is a deeply held principle at SFCA that choices about how and where to spend the public's money on public art is a decision made by the SFCA commission based on recommendations from panels made up of qualified members of the public, not by agency employees, regardless of their expertise. In my eight years as an SFCA commissioner, there was never an instance when the commission did not vote to approve the recommendations of a grant panel.

Regarding the performing arts special account:

- I am not sure what is meant by §9(1) which states that revenues from performing arts pilot program will be deposited in a special account. In my fifty years in the performing arts, I have never heard of a granting organization receiving any revenue from the projects or organizations that it funds. Receiving "revenues or receipts derived by the foundation from performing arts events" would be highly irregular and perhaps unethical.
- The SFCA has existing procedures for accepting gifts grants and donations.

Regarding "Revenues generated from agreements to record performances negotiated by the foundation

- The SFCA does not charge the public to see public art, so to be consistent with that policy, there should be no revenue from the showing of videos
- This provision relies on a deep misunderstanding of performance rights, copyright, and the limited rights that performers and performing arts groups have in the copyrighted works that they perform.
- When performing arts groups perform copyrighted works, they obtain limited licenses that are specific to the venue and number of performances. Those live performance rights generally do not include the right to make audio or video recordings, and in cases where recording is allowed, they do not allow those recordings to be transferred to others.
- As an example of the complexity of video rights issues, Kahilu Theatre, where I was the board president, has an online channel on Vimeo that shows streaming and on-demand videos of performances at the theatre. In a concert at Kahilu, when a singer performs a song composed by someone else, the songwriter's royalties are covered by an annual

fee paid by Kahilu to a licensing organization. However, when Kahilu posts an on-demand video of that concert on the Vimeo channel, all songs not written by the performer must be deleted because neither Kahilu nor the performer has “synchronization rights,” which are the right to sync audio and visual recordings. A singer can record a CD that includes songs that are composed by someone else by simply notifying a clearing house and paying royalties according a set rate schedule; no negotiation is required. An audio/video recording, however, requires synchronization rights that are expensive and rarely granted. Performing arts organizations like Kahilu Theatre don’t have the rights that enable them to give a video recording of a concert to the State of Hawaii.

- Creating a video of a performance should never be a condition of a grant given to a performing arts group
- The majority of performing arts groups that might be funded by this program are unlikely to have the technical capacity, the staffing, or the funding to make a video recording that fairly represents the work of the creative artists. Showing low quality videos of a live performance event is unfair to the creative artists involved.
- As a member of the trade organization for Broadway producers and theatre owners, I was a member of teams that negotiated multi-employer contracts with the unions and guilds representing actors, musicians, composers, orchestrators, lyricists, directors, choreographers, stage designers and other creative artists. In all of those contracts, live performance rights do not include the right to make a video recording. Those unions and guilds protect their members right to protect how their work is translated from live performance to video as well as protecting their right to be compensated for the re-use of their work. All creative artists, whether or not they belong to one of those unions or guilds, should be afforded the same protections.

While I strongly support funding for the performing arts through the Hawaii State Foundation, I believe that H.B. 475, however well-intentioned, is not the way to achieve that goal. There is a simple way to accomplish this goal — provide funding to SFCA that is designated for this purpose and let SFCA form the advisory committee and administer the program in the same manner that it successfully runs its other grant programs. I would happily volunteer my time and the knowledge gained in my fifty years of experience in the performing arts to such an SFCA advisory committee.

Aloha and mahalo for the opportunity to present this testimony.
Sherman Warner

HB-475-SD-1

Submitted on: 4/4/2023 10:03:26 AM

Testimony for WAM on 4/5/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Yukie Shiroma	Individual	Support	Written Testimony Only

Comments:

As a long time educator, director, and performer, born in Hawai‘i and raised in San Francisco, I have seen through the years so many young talented local students forced to leave home to pursue their art. We often talk about a “brain drain” in our state, but our “arts drain” is just as devastating. Arts training and arts opportunity strengthens our ability to solve problems creatively, a skill necessary in any field.

In the middle of the Pacific and in a state closest to Asia, we should not only be bragging about the amount of support we provide to the many cultural forms that exist here, but also how we support new voices who are dedicated to bringing these ancient traditions forward. In many non-Western cultures, the visual and performing arts are not separate but regarded as integral forms of the same creative expression. In many of the cultural forms represented here in our islands, the spoken, the written, the dance, the music, the visuals are all important parts of the story.

I strongly support any funding to this end and will be willing to provide in-person testimony if called upon.

“Art wakes up the parts of our live that have been put to sleep and calcified by habit.”

–Anne Bogart

LATE

HB-475-SD-1

Submitted on: 4/4/2023 2:48:21 PM

Testimony for WAM on 4/5/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Paul Weissman	Individual	Support	Written Testimony Only

Comments:

I support HB 475.

Mahlao

LATE

HB-475-SD-1

Submitted on: 4/4/2023 3:35:37 PM

Testimony for WAM on 4/5/2023 10:00:00 AM

Submitted By	Organization	Testifier Position	Testify
Taurie Kinoshita	Individual	Support	Written Testimony Only

Comments:

To the Honorable Committee,

I am writing in strong support of HB 475 HD1 SD1.

Thank you.

Sincerely,

Taurie Kinoshita