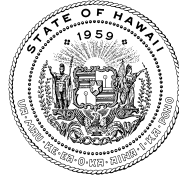


JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



KEITH A. REGAN
COMPTROLLER
KA LUNA HO'OMALU HANA LAULĀ

MEOH-LENG SILLIMAN
DEPUTY COMPTROLLER
KA HOPE LUNA HO'OMALU HANA LAULĀ

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA 'OIHANA LOIHELU A LAWELAWE LAULĀ
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
KEITH A. REGAN, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE

COMMITTEE ON FINANCE

FEBRUARY 21, 2024, 2:00P.M.
CONFERENCE ROOM 308 AND VIA VIDEOCONFERENCE, STATE CAPITOL

H.B. 2238

RELATING TO NON-GENERAL FUNDS.

Chair Yamashita, Vice Chair Kitagawa, and Members of the Committee, thank you for the opportunity to submit testimony on H.B. 2238.

The Department of Accounting and General Services (DAGS) provides **comments** on this measure which reclassifies certain non-general funds of the DAGS, pursuant to the recommendations made by the Auditor in Auditor's Report No. 23-17.

While we agree and support all other changes proposed in this measure, we are strongly opposed to the proposed language that changes the Washington Place Trust Fund to a special fund as this change would be inconsistent with the original wishes of the donors and could result in a devastating loss of donations and artifacts to Washington Place. In consultation with the Office of the Attorney General, we believe that the interpretation of the Washington Place Trust Fund ("Fund") in Auditor's Report

No. 23-17 is narrow and ignores the original purpose of the Fund which is to manage, operate, and maintain Washington Place.

Section 37-62 defines a trust fund as “a fund in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes.” The Fund was created by Act 113, Session Laws of Hawaii 2013. Pursuant to section 37-40, expenditures from a trust fund are exempt from appropriation and allotment.

Section 37-62 defines special funds as “funds which are dedicated or set aside by law for a specified object or purpose but excluding revolving funds and trust funds.” Expenditure from a special fund would be subject to appropriation and allotment.

The Auditor’s statement that the Fund appears to function more like a special fund is misplaced. The Director of Washington Place has confirmed that a significant portion of the balance of moneys in the Fund (approximately \$130,000 in fiscal year 2022-2023) is attributable to a substantial donation that was made several years ago. This donation encumbers the money with the intent that it be used solely for Washington Place purposes. Also, the Director of Washington Place notes that the Fund contains cultural artifacts which are covered by the trust purposes of the Fund. Converting the Fund to a special fund would be inconsistent with the donative intent that the donors of these artifacts had in contributing these pieces to Washington Place. If we are unable to maintain the artifacts at Washington Place consistent with the donor’s wishes, we will have to return such pieces to the donors. Some of the donors of

artifacts that are significant to the history of Washington Place include the Washington Place Foundation, Queen Liliuokalani Trust, Kawanānakoā Foundation, Waters Martin, and others.

We would humbly request that you remove the Washington Place Trust Fund from this proposed measure. Thank you for the opportunity to submit testimony on this matter.



WASHINGTON PLACE

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Written Testimony – Opposing H.B. 2238 – Dated 2/20/2024

By Travis Hancock, Curator of Washington Place, Department of Accounting and General Services, State of Hawai‘i

Aloha Chair Yamashita, Vice Chair Kitagawa, and members of the Committee, thank you for the opportunity to submit testimony on H.B. 2238. Relating to Non-General Funds.

As the curator of Washington Place, I would join with the State Comptroller, Keith A. Regan, in opposing H.B. 2238. In addition to sharing the opinions expressed by Mr. Regan regarding the problematic shift in defining the established “trust fund” as a “special fund,” I would also encourage the committee to consider the broader nature of Washington Place as a repository for hundreds of significant artifacts, including items loaned by non-State entities and gifted directly and intentionally to Washington Place. In my view, the protection of these items and their histories is at stake in this bill.

Although Washington Place is not a formal museum, as a National Historic Landmark and the longtime home of Queen Lili‘uokalani and Hawai‘i’s Territorial and State governors, it is well understood by the public to be an important, even precious, site. Indeed, since it was completed in 1847, it may be the oldest home in Honolulu that still operates as a home—something visitors are always impressed by during our weekly tours. As such, many members of the public possessing precious heirlooms connected to island history view the home as an ideal repository to which to donate said items. Since at least the 1970s, Washington Place has welcomed the return of many precious pieces of furniture and material culture—which we effectively hold in the public trust, and readily share with the public as often as possible. Among our artifact records are clear indications of what we call “provenance,” or the backstory or origin of an item. These effectively log the generosity of the donors, and their wishes for their precious pieces, which they saw fit to offer to the public specifically at Washington Place. These donors include many members of well-known local families, including past governor’s families, the descendants of which expect Washington Place to protect, care for, and share the histories of their items.

The Washington Place Trust Fund (WPTF) is a crucial fund for maintaining those wishes, and respecting the generosity of generations past. Additionally, it is precisely by maintaining the WPTF specifically as a “trust fund” that we respect the wishes and generosity of the donors who established *that fund*. The WPTF should be seen and retained as a gift given explicitly to Washington Place, for the care of Washington Place. We should not deviate from this precedent, which does much to preserve one of the richest historical sites in the islands. Mahalo.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-SECOND LEGISLATURE, 2024**

ON THE FOLLOWING MEASURE:

H.B. NO. 2238, RELATING TO NON-GENERAL FUNDS.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Wednesday, February 21, 2024 **TIME:** 2:00 p.m.

LOCATION: State Capitol, Room 308 and Videoconference

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Randall S. Nishiyama, Deputy Attorney General

Chair Yamashita and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill reclassifies certain non-general funds of the Department of Accounting and General Services (DAGS), including the Washington Place Trust Fund (Fund), pursuant to the recommendations made by the Legislative Auditor in Auditor's Report No. 23-17.

This bill proposes to convert the Fund into a special fund, and this action may conflict with the intentions of the donors to the Fund and could potentially lead to a significant decline in donations and artifacts for Washington Place. We believe that the Legislative Auditor's interpretation in Auditor's Report No. 23-17 regarding the Fund overlooks the responsibility of DAGS to preserve and protect Washington Place. It is essential to note that the primary objective of the Fund is to manage, operate, and maintain Washington Place.

Section 37-62, Hawaii Revised Statutes (HRS), defines a trust fund as "a fund in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes." Pursuant to section 37-40, HRS, expenditures from a trust fund are exempt from appropriation and allotment.

Section 37-62 defines special funds as "funds which are dedicated or set aside by law for a specified object or purpose but excluding revolving funds and trust funds." Expenditure from a special fund would be subject to appropriation and allotment.

The Auditor's assertion that the Fund appears to function more like a special fund is inaccurate. The Auditor notes that the ending balance of the Fund in fiscal year 2022-2023 was approximately \$130,000. According to Mr. Cameron Heen, Washington Place's director, that balance stems from a significant donation made several years ago which earmarked the moneys exclusively for Washington Place purposes. In addition, Mr. Heen noted that the Fund holds cultural artifacts aligned with the trust's purposes. Converting the Fund into a special fund would contradict the donor's intent in contributing these artifacts to Washington Place. Failure to uphold the Donor's wishes regarding the artifacts may require their return to the respective donors. Noteworthy contributors to Washington Place's historical artifacts include the Washington Place Foundation, the Queen Liliuokalani Trust, the Kawanānakoā Foundation, Waters Martin, among others.

We respectfully ask the Committee to consider our comments. Thank you for the opportunity to testify.

TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 305

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Reclassify Funds of Department of Accounting and General Services

BILL NUMBER: HB 2238

INTRODUCED BY: YAMASHITA

EXECUTIVE SUMMARY: Reclassifies certain non-general funds of the Department of Accounting and General Services, pursuant to the recommendations made by the Auditor in Auditor's Report No. 23-17.

SYNOPSIS: Amends section 26-6(h), HRS, to reclassify the Washington Place Trust Fund as a special fund.

Reclassifies the following as trust funds: (1) The refundable deposits--public works--leasing branch trust account, administratively established in 2019; (2) The refundable deposits--public works--other than leasing trust account, administratively established in 2019; (3) The state foundation on culture and the arts trust account, administratively established in 1984; (4) The temporary deposits--automotive management trust account, administratively established in 1996; and (5) The temporary deposits--public works trust account, administratively established in 1988.

EFFECTIVE DATE: July 1, 2024.

STAFF COMMENTS: The 1989 Tax Review Commission noted that use of special fund financing is a “departure from Hawaii’s sound fiscal policies and should be avoided.” It also noted that special funds are appropriate where the revenues to the funds maintain some direct connection between a public service and the beneficiary of that service. The Commission found that special funds which merely set aside general funds cannot be justified as such actions restrict budget flexibility, create inefficiencies, and lessen accountability. It recommended that such programs can be given priority under the normal budget process without having to resort to this type of financing.

Because of the spotlight on monies in special funds, HRS section 23-12 requires the State Auditor to review all existing special, revolving, and trust funds beginning in 2014 and at five-year intervals. This bill was the result of Auditor’s Report No. 23-17.

Digested: 2/19/2024