



GOV. MSG. NO 894

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

July 8, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB1412 HD1 SD1 CD1, without my approval, and with the statement of objections relating to the measure.

HB1412 HD1 SD1 CD1

A BILL FOR AN ACT RELATING TO THE
DEPARTMENT OF TAXATION'S BENEFITS-FUNDED
REVENUE-GENERATING COMPUTER INITIATIVES.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

July 8, 2008

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 1412

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 1412, entitled "A Bill for an Act Relating to the Department of Taxation's Benefits-Funded Revenue-Generating Computer Initiatives."

The purpose of this bill is to require the Department of Taxation to enter into a "benefits-funded" contract with a vendor to increase tax collections, to further automate tax collections, and to require electronic filing of tax returns.

While the general objectives in this measure are laudable, the bill is objectionable because it would set questionable, unrealistic, and inappropriate parameters under which the department would have to implement these programs.

The bill fails to provide sufficient time for the Department of Taxation to execute performance-based contracts by artificially establishing an October 1, 2008 deadline to do so. It is not clear whether the contracts must be fully performed by this deadline or simply fully signed by the Department and the contractor, but if it is the latter, then the bill's October 1, 2008 deadline does not allow sufficient time to go through the State's legally mandated, established procurement process.

Also, it is not clear whether the other improvements and operational efficiencies to be achieved by the Department of Taxation under the bill must also be fully performed by October 1, 2008.

STATEMENT OF OBJECTIONS
HOUSE BILL NO. 1412
Page 2

Section 12 of the bill appropriates \$2,900,000 out of the general revenues for fiscal year 2008-2009 to be deposited in the new Integrated Tax Services and Management Special Fund and section 13 of the bill appropriates \$2,900,000 out of that special fund to be used for the purposes of that new special fund. However, section 14 of the bill requires the Department of Taxation to repay the \$2,900,000 appropriated from the general revenues for fiscal year 2008-2009 no later than June 30, 2009. There is no appropriation of \$2,900,000 out of that special fund or from other moneys that can be used to repay the general fund for the original \$2,900,000 appropriated out of general revenues.

The Administration is pleased with the excellent work the Department of Taxation has undertaken to implement more effective tax collections and ensure aggressive collection of delinquent taxes. This bill would divert important department resources to a project that has not been realistically defined in this legislation and could adversely impact the current efforts of the State Tax Department.

For the foregoing reasons, I am returning House Bill No. 1412 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read 'L. Lingle', written in a cursive style.

LINDA LINGLE
Governor of Hawaii

VETO

HOUSE OF REPRESENTATIVES
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

H.B. NO. 1412
H.D. 1
S.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO THE DEPARTMENT OF TAXATION'S BENEFITS-FUNDED
REVENUE-GENERATING COMPUTER INITIATIVES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 PART I

2 SECTION 1. The purpose of this Act is to improve the
3 department of taxation's collection capabilities through the
4 efficient allocation of resources, simplified taxpayer filings,
5 and a more user friendly interface with the public.

6 The legislature finds that in 2006, the department of
7 taxation collected \$4,400,000,000. Of that amount, almost
8 \$2,500,000,000 was generated through the general excise tax,
9 \$1,600,000,000 from individual income taxes, \$216,000,000
10 through the transient accommodations tax, and the balance was
11 collected from miscellaneous taxes.

12 In 2006, only twenty-seven per cent of all individual
13 income tax returns were filed electronically, leaving
14 seventy-three per cent as paper forms and payments to be
15 processed manually. During tax season, it is not unusual for
16 the department of taxation to receive one ton of mail a day.



1 SECTION 2. The purpose of this part is to provide revenue
 2 generating initiatives that will be benefits-funded, meaning the
 3 vendor will be paid when measurable increases in revenues
 4 resulting from the initiatives are collected by the State. The
 5 revenues will be used by the department of taxation to enhance
 6 its computer system, called the integrated tax services and
 7 management system, and to streamline related operational
 8 procedures.

9 SECTION 3. Chapter 231, Hawaii Revised Statutes, is
 10 amended by adding a new section to be appropriately designated
 11 and to read as follows:

12 "§231- Integrated tax services and management special
 13 fund. (a) There is established in the state treasury the
 14 integrated tax services and management special fund to improve
 15 customer services and taxpayer fairness, and increase cost
 16 savings, with an emphasis on electronic filings.

17 (b) Notwithstanding any other law to the contrary, the
 18 source of funding of any appropriations to the integrated tax
 19 services and management special fund for the purposes of funding
 20 initiatives under subsection (c) shall come from the tax
 21 revenues collected pursuant to chapters 235, 237, and 238.

1 (c) Moneys in the special fund may be expended upon
2 legislative appropriation by the department to pay for:
3 (1) The integrated tax services and management system's
4 performance-based contracts and administrative and
5 operating expenses related to the integrated tax
6 services and management system's post-implementation
7 revenue-generating initiatives;
8 (2) The improvement of tax collection capabilities and
9 achieving the operational efficiencies that are the
10 department's responsibilities under this section;
11 (3) The department's implementation, administration, and
12 compliance of the Streamlined Sales and Use Tax
13 Agreement when state legislation mandating
14 implementation, administration, and compliance is
15 enacted, including but not limited to computer
16 software and hardware costs, technical assistance of
17 contractors for any necessary fiscal or legal matters
18 resulting from the adoption and implementation of the
19 Streamlined Sales and Use Tax Agreement, and for the
20 support of any committees established in conjunction
21 with the Agreement; and



1 (4) The improvement of the department's operation and
2 staffing requirements."

3 SECTION 4. Section 36-27, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§36-27 Transfers from special funds for central service**
6 **expenses.** Except as provided in this section, and
7 notwithstanding any other law to the contrary, from time to
8 time, the director of finance, for the purpose of defraying the
9 prorated estimate of central service expenses of government in
10 relation to all special funds, except the:

11 (1) Special out-of-school time instructional program fund
12 under section 302A-1310;

13 (2) School cafeteria special funds of the department of
14 education;

15 (3) Special funds of the University of Hawaii;

16 (4) State educational facilities improvement special fund;

17 (5) Convention center enterprise special fund under
18 section 201B-8;

19 (6) Special funds established by section 206E-6;

20 (7) Housing loan program revenue bond special fund;

21 (8) Housing project bond special fund;

22 (9) Aloha Tower fund created by section 206J-17;



- 1 (10) Funds of the employees' retirement system created by
2 section 88-109;
- 3 (11) Unemployment compensation fund established under
4 section 383-121;
- 5 (12) Hawaii hurricane relief fund established under chapter
6 431P;
- 7 (13) Hawaii health systems corporation special funds and
8 the subaccounts of its regional system boards;
- 9 (14) Tourism special fund established under section
10 201B-11;
- 11 (15) Universal service fund established under chapter 269;
- 12 (16) Emergency and budget reserve fund under section
13 328L-3;
- 14 (17) Public schools special fees and charges fund under
15 section 302A-1130(f);
- 16 (18) Sport fish special fund under section 187A-9.5;
- 17 (19) Neurotrauma special fund under section 321H-4;
- 18 (20) Deposit beverage container deposit special fund under
19 section 342G-104;
- 20 (21) Glass advance disposal fee special fund established by
21 section 342G-82;



- 1 (22) Center for nursing special fund under section
- 2 304A-2163;
- 3 (23) Passenger facility charge special fund established by
- 4 section 261-5.5;
- 5 (24) Solicitation of funds for charitable purposes special
- 6 fund established by section 467B-15;
- 7 (25) Land conservation fund established by section 173A-5;
- 8 (26) Court interpreting services revolving fund under
- 9 section 607-1.5;
- 10 (27) Trauma system special fund under section 321-22.5;
- 11 (28) Hawaii cancer research special fund;
- 12 (29) Community health centers special fund; ~~and~~
- 13 (30) Emergency medical services special fund; and
- 14 (31) Integrated tax services and management special fund
- 15 under section 231- ;

16 shall deduct five per cent of all receipts of all other special
17 funds, which deduction shall be transferred to the general fund
18 of the State and become general realizations of the State. All
19 officers of the State and other persons having power to allocate
20 or disburse any special funds shall cooperate with the director
21 in effecting these transfers. To determine the proper revenue
22 base upon which the central service assessment is to be

1 calculated, the director shall adopt rules pursuant to chapter
2 91 for the purpose of suspending or limiting the application of
3 the central service assessment of any fund. No later than
4 twenty days prior to the convening of each regular session of
5 the legislature, the director shall report all central service
6 assessments made during the preceding fiscal year."

7 SECTION 5. Section 36-30, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) Each special fund, except the:

- 10 (1) Transportation use special fund established by section
11 261D-1;
- 12 (2) Special out-of-school time instructional program fund
13 under section 302A-1310;
- 14 (3) School cafeteria special funds of the department of
15 education;
- 16 (4) Special funds of the University of Hawaii;
- 17 (5) State educational facilities improvement special fund;
- 18 (6) Special funds established by section 206E-6;
- 19 (7) Aloha Tower fund created by section 206J-17;
- 20 (8) Funds of the employees' retirement system created by
21 section 88-109;



- 1 (9) Unemployment compensation fund established under
2 section 383-121;
- 3 (10) Hawaii hurricane relief fund established under chapter
4 431P;
- 5 (11) Convention center enterprise special fund established
6 under section 201B-8;
- 7 (12) Hawaii health systems corporation special funds and
8 the subaccounts of its regional system boards;
- 9 (13) Tourism special fund established under section
10 201B-11;
- 11 (14) Universal service fund established under chapter 269;
- 12 (15) Emergency and budget reserve fund under section
13 328L-3;
- 14 (16) Public schools special fees and charges fund under
15 section 302A-1130(f);
- 16 (17) Sport fish special fund under section 187A-9.5;
- 17 (18) Neurotrauma special fund under section 321H-4;
- 18 (19) Center for nursing special fund under section
19 304A-2163;
- 20 (20) Passenger facility charge special fund established by
21 section 261-5.5;



- 1 (21) Court interpreting services revolving fund under
- 2 section 607-1.5;
- 3 (22) Trauma system special fund under section 321-22.5;
- 4 (23) Hawaii cancer research special fund;
- 5 (24) Community health centers special fund; ~~and~~
- 6 (25) Emergency medical services special fund; and
- 7 (26) Integrated tax services and management special fund
- 8 under section 231- ;

9 shall be responsible for its pro rata share of the
 10 administrative expenses incurred by the department responsible
 11 for the operations supported by the special fund concerned."

12 SECTION 6. Section 235-119, Hawaii Revised Statutes, is
 13 amended to read as follows:

14 "**§235-119 Taxes, state realizations.** ~~[All]~~ (a) Except as
 15 provided in subsection (b), all income taxes shall be for the
 16 use of the State and shall be paid into the state treasury at
 17 such times as the director of finance shall direct.

18 (b) The director of taxation shall pay the income taxes
 19 into the state treasury as a state realization; provided that a
 20 sum, not to exceed the amount necessary to meet the obligations
 21 of the integrated tax services and management system's
 22 performance-based contracts and other purposes of the integrated



1 tax services and management special fund, may be retained and
2 deposited into the state treasury to the credit of the
3 integrated tax services and management special fund. The sum
4 retained by the director of taxation for deposit into the
5 integrated tax services and management special fund shall be
6 limited to amounts appropriated by the legislature."

7 SECTION 7. Section 237-31, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§237-31 **Remittances.** All remittances of taxes imposed by
10 this chapter shall be made by money, bank draft, check,
11 cashier's check, money order, or certificate of deposit to the
12 office of the department of taxation to which the return was
13 transmitted. The department shall issue its receipts therefore
14 to the taxpayer and shall pay the moneys into the state treasury
15 as a state realization, to be kept and accounted for as provided
16 by law; provided that:

- 17 (1) The sum from all general excise tax revenues realized
- 18 by the State that represents the difference between
- 19 \$90,000,000 and the proceeds from the sale of any
- 20 general obligation bonds authorized for that fiscal
- 21 year for the purposes of the state educational
- 22 facilities improvement special fund shall be deposited



1 in the state treasury in each fiscal year to the
2 credit of the state educational facilities improvement
3 special fund for public school capital improvement
4 program needs; [~~and~~]

5 (2) A sum, not to exceed \$5,000,000, from all general
6 excise tax revenues realized by the State shall be
7 deposited in the state treasury in each fiscal year to
8 the credit of the compound interest bond reserve
9 fund[~~-~~]; and

10 (3) A sum, not to exceed the amount necessary to meet the
11 obligations of integrated tax services and management
12 system's performance-based contracts and other
13 purposes of the integrated tax services and management
14 special fund, may be retained and deposited into the
15 state treasury to the credit of the integrated tax
16 services and management special fund. The sum
17 retained by the director of taxation for deposit into
18 the integrated tax services and management special
19 fund shall be limited to amounts appropriated by the
20 legislature."

21 SECTION 8. Section 238-14, Hawaii Revised Statutes, is
22 amended to read as follows:



1 SECTION 10. (a) Notwithstanding any other law to the
2 contrary, including any law requiring oversight of an executive
3 department's decisions relating to on-line portals or
4 internet-based access, the department of taxation shall utilize
5 performance-based contracts to enhance or acquire automated tax
6 systems, or both, including computer hardware and software, for
7 the implementation and administration of the taxes under title
8 14, Hawaii Revised Statutes, including:

9 (1) The city and county of Honolulu surcharge authorized
10 under section 46-16.8, Hawaii Revised Statutes, and
11 adopted by ordinance; and

12 (2) The Streamlined Sales Tax Project under Act 3, Special
13 Session Laws of Hawaii 2005, and related software
14 upgrade.

15 (b) For the purposes of this part:

16 "Performance-based contract" means a contract under which
17 compensation to the vendor shall be computed according to
18 performance standards established by the department of taxation.
19 Any performance-based contract entered into by the department of
20 taxation for the purposes established under subsection (a) shall
21 provide for the payment of fees:



1 (1) Based on a contractually specified amount of the
2 increase in the amount of taxes, interest, and
3 penalties collected and attributable to the
4 implementation of the integrated tax services and
5 management system post-implementation revenue-
6 generating initiatives; or

7 (2) On a fixed-fee contract basis to be paid from the
8 increase in the amount of taxes, interest, and
9 penalties collected and attributable to the
10 implementation of the integrated tax services and
11 management system post-implementation revenue-
12 generating initiatives.

13 (c) The State shall receive a permanent license to use the
14 enhanced or automated tax systems upon full payment to the
15 vendor.

16 (d) Notwithstanding any other law to the contrary, the
17 department of taxation shall award the performance-based
18 contract pursuant to the requirements of chapter 103D, Hawaii
19 Revised Statutes.

20 SECTION 11. The director of taxation shall report to the
21 legislature, no later than twenty days prior to the convening of
22 every regular session, beginning with the 2009 regular session,



1 with respect to the status of the performance-based contract and
2 shall provide an accounting of all moneys appropriated. The
3 report shall include:

- 4 (1) Detailed information on the costs, benefits, and
5 features of implementing the integrated tax services
6 and management system post-implementation
7 revenue-generating initiatives;
- 8 (2) The amount of increased tax, interest, and penalties
9 collected that is attributable to the integrated tax
10 services and management system post-implementation
11 revenue-generating initiatives;
- 12 (3) The amount paid to the vendor or vendors contracted
13 under this Act; and
- 14 (4) Any additional staffing, staffing shifts or savings in
15 staffing or resource requirements generated through
16 implementation of the integrated tax services and
17 management system post-implementation revenue-
18 generating initiatives.

19 The report shall also include any other information from
20 the preceding fiscal year that may assist the legislature in
21 determining the efficacy of a contract executed under this Act,
22 beginning with the fiscal year immediately preceding the fiscal



1 year commencing on the effective date of this Act and continuing
2 until two complete fiscal years have elapsed following the full
3 implementation of the integrated tax services and management
4 system post-implementation revenue-generating initiatives.

5 SECTION 12. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$2,900,000 or so much
7 thereof as may be necessary for fiscal year 2008-2009 to be
8 deposited into the integrated tax services and management
9 special fund established pursuant to section 231- , Hawaii
10 Revised Statutes, contained in section 3 of this Act.

11 SECTION 13. There is appropriated out of the integrated
12 tax services and management special fund the sum of \$2,900,000
13 or so much thereof as may be necessary for fiscal year 2008-2009
14 for the purposes of the integrated tax services and management
15 special fund established pursuant to section 231- , Hawaii
16 Revised Statutes, contained in section 3 of this Act, to assist
17 the department of taxation in upgrading its operations,
18 workforce, skills of its employees, or other purposes authorized
19 under section 231- , Hawaii Revised Statutes, contained in
20 section 3.

21 The sum appropriated shall be expended by the department of
22 taxation.



1 SECTION 14. The department of taxation shall repay the
2 general fund for the appropriation made under section 12 to the
3 integrated tax services and management special fund established
4 pursuant to section 231- , Hawaii Revised Statutes, no later
5 than June 30, 2009.

6 PART IV

7 SECTION 15. The increased use of computers for personal
8 purposes and in daily business operations has led to an increase
9 in electronic and computer-based interactions with government.
10 The department of taxation interacts with nearly every person in
11 Hawaii on a regular basis. The department of taxation also
12 regularly interacts with nonresident taxpayers and mainland-
13 based businesses that routinely file tax information.

14 In response to the increase in interactions with
15 out-of-state taxpayers and the increase in electronic tax
16 filings, the legislature, in 1997, made electronic filing an
17 acceptable means of carrying out a taxpayer's obligations under
18 the law. Since this law was enacted, the ability to interact
19 electronically has grown considerably, especially for
20 businesses, nearly all of which have a computer and access to
21 the Internet.



1 Within the next decade, a majority, if not all, of tax
2 filings are predicted to be filed electronically. This will
3 result in greater efficiencies for both the taxpayer and the
4 State. In addition, the legislature, which is charged with the
5 responsibility of overseeing the effectiveness of tax incentives
6 and the efficacy of the tax system as a whole, will have access
7 to more specific data on Hawaii taxes if the tax data is
8 captured electronically.

9 The amendments in this part will also ensure that taxpayers
10 will be provided with sufficient notice and an opportunity to
11 comment by requiring compliance with chapter 91, Hawaii Revised
12 Statutes.

13 The purpose of this part is to increase electronic filing
14 by requiring that the department of taxation, by rule, require
15 electronic filing. It is the intent of the legislature, that
16 within this broader mandate, the department of taxation shall:

- 17 (1) Focus its initial rulemaking on those taxes paid by
18 businesses that the Internal Revenue Service requires
19 to be filed electronically; and
- 20 (2) Address increased voluntary electronic filing through
21 the integrated tax services and management software
22 upgrades.

1 SECTION 16. Section 231-8.5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§231-8.5[+] **Electronic filing of tax returns.** The
4 department may allow, or require by rule adopted pursuant to
5 chapter 91, filing by electronic, telephonic, or optical means
6 of any tax return, application, report, or other document
7 required under the provisions of title 14 administered by the
8 department. The date of filing shall be the date the tax
9 return, application, report, or other document is transmitted to
10 the department in a form and manner prescribed by departmental
11 rules adopted pursuant to chapter 91. The department may
12 determine alternative methods for the signing, subscribing, or
13 verifying of a tax return, application, report, or other
14 document that shall have the same validity and consequences as
15 the actual signing by the taxpayer. A filing under this section
16 shall be treated in the same manner as a filing subject to the
17 penalties under section 231-39."

18 SECTION 17. Section 231-9.9, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) The director of taxation is authorized to require
21 every person whose tax liability for any one taxable year
22 exceeds:



1 (1) \$100,000~~[7]~~; or
2 (2) An amount equal to \$100,000 or less if required by
3 rule adopted pursuant to chapter 91;
4 and who files a tax return for any tax, including consolidated
5 filers, to remit taxes by one of the means of electronic funds
6 transfer approved by the department; provided that for
7 withholding taxes under section 235-62, electronic funds
8 transfers shall apply to annual tax liabilities that exceed
9 \$40,000."

PART V

11 SECTION 18. Statutory material to be repealed is bracketed
12 and stricken. New statutory material is underscored.

13 SECTION 19. This Act shall take effect on June 29, 2008;
14 provided that the amendment made to section 237-31, Hawaii
15 Revised Statutes, by this Act shall not be repealed when that
16 section is reenacted on June 30, 2008, by section 4 of Act 304,
17 Session laws of Hawaii 2006.

