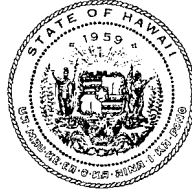


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SENATE COMMITTEE ON INTERGOVERNMENTAL AFFAIRS

TESTIMONY REGARDING SB 3039 RELATING TO ZONING

February 7, 2006

This bill would, among other things, provide a tax credit for the costs incurred planning, designing, and constructing a roof top landscape feature as may be required by purported land use law. The bill would take effect upon approval and apply to taxable years beginning December 31, 2007.

The Department of Taxation ("Department") **opposes** this bill and further encourages this Committee to hold this measure.

The Department opposes this bill for several reasons:

IMPACTING MANY TO BENEFIT A FEW—This legislation is too narrow and does not provide a public benefit. Taxpayers that never visit urban buildings will be forced to contribute their tax dollars to finance an urban park on the roof of an office building that those persons will not have access to. The Topa Financial Center, which is referenced in this bill, is a private building and may institute policies against non-tenants from accessing its rooftop park. Moreover, taxpayers that do not work in urban areas and are not subject to the views of neighboring rooftops will be forced to pay to accommodate the few that do have views of rooftops.

LEGITIMATE SAFETY CONCERNS—Though this argument is outside the purview of the Department, there are rational and legitimate safety concerns that arise as a result of this legislation. Placing an urban park on a roof of a 20+ story building is not safety oriented. Though some builders could take precautions to hedge against safety incidents, it is likely that safety will be an issue. A determined patron of the urban park could use access to the high elevation area to do great bodily harm to themselves or others below.

COUNTY ISSUE—This is primarily a county issue. Each county should decide whether such urban parks are necessary. This public policy pursuit is better suited for a resolution, rather than mandating counties adopt such ordinances.

OUTSIDE BUDGET PLANNING—This legislation is outside the scope of the executive budget. Even with a budget surplus, the legislature must spend the public's money wisely and not on projects that will not benefit the public good.

This legislation will result in revenue loss to the State of an indeterminable amount.

For the reasons set forth herein, the Department respectfully requests this Committee hold this measure as proposed. Thank you for this opportunity to testify.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kurt Kawafuchi", written in a cursive style.

KURT KAWAFUCHI
Director of Taxation