



RESOLUTION

RELATING TO THE 2011 HAWAII STATE ASSOCIATION OF COUNTIES
LEGISLATIVE PACKAGE.

WHEREAS, the Hawaii State Association of Counties ("HSAC") is composed of the members of all four county councils of the State of Hawaii; and

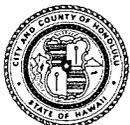
WHEREAS, the legislative package proposed by HSAC represents the state legislative priorities of the counties; and

WHEREAS, the HSAC Executive Committee has proposed state legislation listed in this resolution to be part of the Hawaii State Association of Counties' 2011 legislative package; and

WHEREAS, approval by all the counties is required to include proposals in the 2011 HSAC legislative package; now, therefore,

BE IT RESOLVED by the Council of the City and County of Honolulu that it approves for inclusion in the 2011 HSAC legislative package as follows:

1. A proposed bill requiring candidates for elective county office to certify that the candidate has complied with provisions of the county charter and ordinances pertaining to elected officials, attached as Exhibit A.
2. A proposed bill to increase the regulation of aquarium aquatic life collection in order to protect Hawaii's aquatic life and the marine environment, attached as Exhibit B.
3. A proposed bill to add a trustee to the board of trustees of the Employees Retirement System to represent the interests of the counties, attached as Exhibit C.
4. A proposed bill to add a trustee to the board of trustees of the Employer-Union Trust Fund to represent the interests of the counties, attached as Exhibit D.
5. A proposed bill to add firefighters and water safety officers to laws increasing penalties for assault against law enforcement officers, attached as Exhibit E.



RESOLUTION

- 6. A proposed bill to allow counties to determine the appointment authority of county liquor administrators by county charter, attached as Exhibit F.
- 7. A proposed bill to allow the personnel directors of the counties of Kauai, Maui, and Hawaii to be appointed by either the merit appeals board or the mayor of the county, attached as Exhibit G.
- 8. A HSAC resolution urging the governor and state legislature to maintain the counties' share of the transient accommodations tax, attached as Exhibit H.

and

BE IT FINALLY RESOLVED that a copy of this Resolution be transmitted to the President of the Hawaii State Association of Counties.

INTRODUCED BY:

Walter Davis

DATE OF INTRODUCTION:

OCT 04 2010

Honolulu, Hawaii

Councilmembers

JUSTIFICATION SHEET

PROPOSER: County of Maui

TITLE: A BILL FOR AN ACT RELATING TO NOMINATION PAPERS

PURPOSE: The purpose of the draft bill is to require that candidates for elective county office include with their nomination paper a sworn certification of compliance with any relevant provision of the county charter or ordinances pertaining to elected officials, or the nomination papers shall be void and not accepted for filing by the county clerk.

MEANS: Amend Section 12-3, Hawaii Revised Statutes, to add to the list of information required to be contained in a candidate's nomination paper the following:

"For candidates seeking elective County office, a sworn certification by self-subscribing oath by the candidate that the candidate has complied with provisions of the relevant County charter and County ordinances pertaining to elected officials."

JUSTIFICATION: This measure will help to ensure that a candidate for elective County office has complied with any County laws, including the filing of financial disclosure statements, prior to the candidate's name being placed on the ballot.

paf:kmh:10-093b2

A BILL FOR AN ACT

RELATING TO NOMINATION PAPERS.

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

1 SECTION 1. Section 12-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "(a) No candidate's name shall be printed upon any
4 official ballot to be used at any primary, special primary, or
5 special election unless a nomination paper was filed in the
6 candidate's behalf and in the name by which the candidate is
7 commonly known. The nomination paper shall be in a form
8 prescribed and provided by the chief election officer containing
9 substantially the following information:

10 (1) A statement by the registered voters signing the form
11 that they are eligible to vote for the candidate;

12 (2) A statement by the registered voters signing the form
13 that they nominate the candidate for the office
14 identified on the nomination paper issued to the
15 candidate;

16 (3) The residence address and county in which the candidate
17 resides;

____.B. NO. _____

- 1 (4) The legal name of the candidate, the name by which the
2 candidate is commonly known, if different, the office
3 for which the candidate is running, and the
4 candidate's party affiliation or nonpartisanship; all
5 of which are to be placed on the nomination paper by
6 the chief election officer or the clerk prior to
7 releasing the form to the candidate;
- 8 (5) Space for the name, signature, date of birth, last four
9 digits of the social security number, and residence
10 address of each registered voter signing the form, and
11 other information as determined by the chief election
12 officer; provided that no more than the last four
13 digits of a voter's social security number shall be
14 required;
- 15 (6) A sworn certification by self-subscribing oath by the
16 candidate that the candidate qualifies under the law
17 for the office the candidate is seeking and that the
18 candidate has determined that, except for the
19 information provided by the registered voters signing
20 the nomination papers, all of the information on the
21 nomination papers is true and correct;

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1 (7) A sworn certification by self-subscribing oath by a
2 party candidate that the candidate is a member of the
3 party;

4 (8) For candidates seeking elective County office, a sworn
5 certification by self-subscribing oath by the
6 candidate that the candidate has complied with
7 provisions of the relevant County charter and County
8 ordinances pertaining to elected officials.

9 [(8)] (9) A sworn certification by self-subscribing oath,
10 where applicable, by the candidate that the candidate
11 has complied with the provisions of article II,
12 section 7, of the Constitution of the State of Hawaii;

13 [(9)] (10) A sworn certification by self-subscribing oath by
14 the candidate that the candidate is in compliance with
15 section 831-2, dealing with felons, and is eligible to
16 run for office; and

17 [(10)] (11) The name the candidate wishes printed on the
18 ballot and the mailing address of the candidate.

19 (b) Signatures of registered voters shall not be counted,
20 unless they are upon the nomination paper having the format set
21 forth above, written or printed thereon, and if there are
22 separate sheets to be attached to the nomination paper, the

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1 sheets shall have the name of the candidate, the candidate's
2 party affiliation or nonpartisanship, and the office and
3 district for which the candidate is running placed thereon by
4 the chief election officer or the clerk. The nomination paper
5 and separate sheets shall be provided by the chief election
6 officer or the clerk.

7 (c) Nomination papers shall not be filed in behalf of any
8 person for more than one party or for more than one office; nor
9 shall any person file nomination papers both as a party
10 candidate and as a nonpartisan candidate.

11 (d) The office and district for which the candidate is
12 running, the candidate's name, and the candidate's party
13 affiliation or nonpartisanship may not be changed from that
14 indicated on the nomination paper and separate sheets. If the
15 candidate wishes to run for an office or district different from
16 that for which the nomination paper states or under a different
17 party affiliation or nonpartisanship, the candidate may request
18 the appropriate nomination paper from the chief election officer
19 or clerk and have it signed by the required number of registered
20 voters.

21 (e) Nomination papers that contain alterations or changes
22 made by anyone other than the chief election officer or the

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1 clerk to the candidate's information, the candidate's party
2 affiliation or nonpartisanship, the office to which the
3 candidate seeks nomination, or the oath of loyalty or
4 affirmation, after the nomination paper was issued by the chief
5 election officer or clerk, shall be void and will not be
6 accepted for filing by the chief election officer or clerk.

7 (f) Nomination papers which are incomplete and do not
8 contain all of the certifications, signatures, and requirements
9 of this section shall be void and will not be accepted for
10 filing by the chief election officer or clerk."

11 SECTION 2. Statutory material to be deleted is bracketed.
12 New statutory material is underscored.

13 SECTION 3. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

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JUSTIFICATION SHEET

PROPOSER: County of Maui

TITLE: A BILL FOR AN ACT RELATING TO AQUARIUM AQUATIC LIFE

PURPOSE: The purpose of the draft bill is to improve the regulation of aquarium aquatic life collecting to protect Hawaii's aquatic life and the marine environment.

MEANS: Amend Chapter 188, Hawaii Revised Statutes, to add a new section to be appropriately designated.

JUSTIFICATION: Despite the presence of an aquarium fish permit process adopted by the Department of Land and Natural Resources, Division of Aquatic Resources, reef fish populations continue to diminish around the major Hawaiian islands.

These commercial aquarium fish permits allow for the unlimited collection of aquatic life, and presently, do not provide protection for those species of aquatic life that are endemic to Hawaii found nowhere else in the world or are deemed to be crucial to the overall health of the reef environment.

The idea that Hawaii can, or should, supply the entire world's growing demand for these endemic species without Hawaii's reefs suffering irreversible consequences through "sustainable harvesting" is a farce that must be addressed through increased State regulation and protection.

This measure will improve the regulation of the aquarium industry and protect the beauty and health of Hawaii's natural environment.

paf:skk:10-143b2

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A BILL FOR AN ACT

RELATING TO AQUARIUM AQUATIC LIFE.

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

1 SECTION 1. The legislature finds that the aquarium aquatic
2 life collecting industry has operated for over 50 years without
3 limits or constraints on its catch or the number of collectors
4 in the state.

5 The aquarium industry focuses on juvenile reef fish and
6 small invertebrates and exports 82 per cent of its catch to the
7 mainland United States. However, with expanding Asian markets,
8 collectors are targeting more remote and deeper reefs as
9 evidenced by the species sold on many internet websites.
10 Endemic species such as the bandit angelfish and the masked
11 angelfish sell for hundreds or even thousands of dollars each,
12 with no regulation or limit.

13 Home aquariums in China reflect the new prosperity there,
14 with large aquariums covering multiple walls that display adult
15 eels and other large animals from Hawaii's reefs. Aquarium
16 collecting is having major impacts on Oahu and Hawaii reefs and
17 moderate impacts on Maui reefs where over-harvesting is reducing

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1 the marine tourism experience. Many coral reef fish and
2 invertebrates have complicated relationships to the overall
3 ecology of the reef. Their removal may affect the long-term
4 stability of these ecosystems. Significant population declines
5 and major shifts in species diversity are now evident in coral
6 reef areas where collection is occurring. The aquarium catch is
7 mostly herbivore. Their removal could result in increased algal
8 growth, due to a lack of grazers to keep the algae in check,
9 with a corresponding decrease in coral cover.

10 The lack of regulation enables the industry to supply the
11 growing demand for color, shape, and rarity. The Hawaiian
12 cleaner wrasse is one of the most popular fish species collected
13 and is known for its radiant color and lively movement. These
14 fish pick parasites from many other fish, are found nowhere else
15 in the world, and are collected and shipped daily without
16 limitation. The Hawaiian cleaner wrasse will not eat fish food
17 in captivity and eventually dies of starvation. Likewise,
18 coral-eating butterfly fishes, prized by aquarists for their
19 beauty, starve in a short period of time.

20 The purpose of this Act is to improve the regulation of
21 aquarium aquatic life collecting to protect aquatic life and the
22 marine environment.

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SECTION 2. Chapter 188, Hawaii Revised Statutes, is amended by adding two new sections to part II to be appropriately designated and to read as follows:

"§188- Definitions. As used in this part, unless the context clearly requires otherwise:

"Aquarium collecting gear" means any equipment used to collect aquarium fish or animals including but not limited to hand nets, fence or barrier nets, fiberglass or metal "tickle sticks," catch buckets, keeps, or baskets.

"Aquarium purpose" means to hold saltwater fish, freshwater nongame fish, or other aquatic life alive in a state of captivity as pets, for scientific study, or for public exhibition or display, or for sale for these purposes.

"Collect" means to take, catch, capture, harvest, confine, or to attempt to take, catch, capture, harvest, or confine aquatic life. The use of any aquarium collecting gear to take, catch, capture, harvest, or confine, or to attempt to take, catch, capture, harvest, or confine aquatic life by any person who is on or about the shores of Hawaii or in a vessel in Hawaiian waters shall be construed as collecting under this section.

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1 "Department" means the department of land and natural
2 resources.

3 "Endemic" or "endemic species" means any aquatic life
4 specimen found nowhere else other than Hawaii.

5 §188- Aquarium aquatic life; collection. (a) The
6 department shall develop and maintain an aquarium collecting
7 white list of aquatic species for each county. No aquatic
8 species shall be collected or sold for aquarium purposes in the
9 state unless the species appears on the aquarium collecting
10 white list of the county where the species is collected or sold.

11 (b) The aquarium collecting white list shall only include
12 species that are shown by an official, published department or
13 equivalent federal agency study to meet the following criteria:

14 (1) The species can survive capture, transport, and
15 captivity for at least one hundred eighty days; and

16 (2) Based on historical evidence, the species is part of a
17 stable or increasing population trend in the
18 collection area.

19 (c) In addition to the requirements of subsection (b), the
20 following criteria shall apply:

21 (1) The collection of the species in a county shall not
22 exceed the average annual collection in that county

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1 for the calendar years 2005 through 2007, based on
2 department collection reports for those years;

3 (2) The removal of the species does not negatively impact
4 the reef ecosystem by contributing to algae overgrowth
5 for herbivores, parasite overload on other reef fishes
6 for cleaner wrasses and cleaner shrimp, or other
7 harmful results; and

8 (3) The species is not endemic to Hawaii.

9 (d) The department shall inform all permit holders under
10 section 188-31 of the species included in the aquarium
11 collecting white list and the penalties for failure to comply
12 with the restrictions regarding the collection of aquatic life.

13 (e) Any person who collects or sells aquatic life for
14 aquarium purposes not on the aquarium collecting white list
15 shall be fined \$1,000 for each specimen collected or sold.

16 (f) In addition to any other penalty or fine provided by
17 law, any person violating this section shall be sentenced as
18 follows:

19 (1) For a first violation, a fine of not more than \$1,000
20 or thirty days imprisonment, or both;

JUSTIFICATION SHEET

PROPOSER: County of Kaua'i

TITLE: RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM (ERS).

PURPOSE: To add a trustee to the board of trustees of the ERS to represent the interests of the counties.

MEANS: Amend section 88-24, Hawai'i Revised Statutes.

JUSTIFICATION: Counties contribute a considerable share to the retirement system costs, which their employees and retirees include a significant portion of the system's membership. The counties need county membership on the board of trustees' state employees' retirement system to ensure that the board has knowledge and expertise about county finances and the county workforce when making beneficial decisions.

____.B. NO. _____

A BILL FOR AN ACT

RELATING TO THE EMPLOYEES' RETIREMENT SYSTEM.

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

1 SECTION 1. The legislature finds that the counties need
2 county representation on the board of trustees of the employees'
3 retirement system of the State. The counties contribute a
4 considerable share to retirement system costs, and their
5 employees and retirees are a significant portion of the system's
6 membership. County representation will ensure that the board
7 possesses expertise about county finances and the county
8 workforce in making benefit decisions. Lack of representation
9 may result in a situation where board members do not fully
10 consider the costs of their actions on the counties, resulting
11 in changes that may not be cost beneficial in the aggregate or
12 may affect the retirement income of county employees and
13 retirees.

14 The purpose of this Act is to include county representation
15 on the membership of the board of trustees of the employees'
16 retirement system.

B. NO.

1 SECTION 2. Section 88-24, Hawai'i Revised Statutes, is
2 amended to read as follows:

3 "~~§88-24~~ **Composition of board.** The board of trustees
4 shall consist of [~~eight~~] ten members as follows:

5 (1) The director of finance of the State, ex officio;

6 (2) [~~Four~~] Five members of the system, [~~two~~] three of whom
7 shall be general employees, one of whom shall be a
8 teacher, and one of whom shall be a retirant to be
9 elected by the members and retirants of the system
10 under rules adopted by the board governing the
11 election to serve for terms of six years each; one of
12 the terms to expire on January 1 of each even-numbered
13 year; provided that, if after the close of filing of
14 petitions for candidacy, a member is unopposed for
15 election to a trustee position, the member shall be
16 deemed and declared to be duly and legally elected to
17 the position of trustee without an election; [~~and~~]

18 (3) Three citizens of the State who are not employees, one
19 of whom shall be a responsible officer of a bank
20 authorized to do business within the State, or a
21 person of similar experience, to be appointed by the
22 governor, with the advice and consent of the senate,

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1 to serve for a term of six years each, one of the
2 terms to expire January 1 of each odd-numbered year
3 [~~-~~]; and

4 (4) One member appointed by unanimous agreement of the
5 mayors of each of the four counties and approved by
6 the Hawai'i state association of counties, subject
7 to confirmation by the Senate in the same manner as
8 trustees appointed by the governor, to serve for a
9 term of six years with each term to expire on
10 January 1 of an odd-numbered year.

11 Each trustee shall serve until the trustee's successor is
12 elected or appointed, as the case may be, and qualified. For
13 the purpose of this section, the term "general employees"
14 includes police officers and firefighters."

15 SECTION 3. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.

18 INTRODUCED BY: _____

JUSTIFICATION SHEET

PROPOSER: County of Kaua'i

TITLE: RELATING TO THE EMPLOYER-UNION HEALTH BENEFITS TRUST FUND (EUTF).

PURPOSE: To add a trustee to the board of trustees of the EUTF to represent the interests of the counties.

MEANS: Amend section 87A-5, Hawai'i Revised Statutes.

JUSTIFICATION: In 2008, there were 74,300 state workers and 18,550 county workers. For FY 2007-2008, the total amount contributed to the EUTF for health benefit plans was over \$550 million, with over \$128 million coming from the counties and county water supply agencies. Of the total EUTF board membership, there are five employer trustees on the board who are currently state administration representatives and current law does not include a provision for county representation. As employers, the counties pay a substantial amount to the EUTF and should have some say on the board of trustees.

Recently, decisions have been made by the EUTF that affect the counties, including the decision to change the prescription drug program, and have caught members by surprise. By adding a trustee to the EUTF to represent the counties, members may be better informed of the changes to the programs and decisions may be made that will take county interests into consideration.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO THE EMPLOYER-UNION HEALTH BENEFITS TRUST FUND.

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

1 SECTION 1. The legislature finds that the counties need
2 representation on the board of trustees of the Hawai'i employer-
3 union health benefits trust fund. The counties contribute a
4 substantial amount to the fund and the health and well-being of
5 their employees and retirees depend on the benefit decisions
6 made by the board of trustees. Despite their lack of
7 representation, as public employers, the counties are affected
8 by board decisions. In a recent case brought by retirees
9 objecting to board of trustees benefit decisions, the counties
10 were joined in the lawsuit even though they did not have any
11 part in making the decisions.

12 The purpose of this Act is to require that one of the five
13 seats on the board allocated to public employers be occupied by
14 a member appointed by the mayors of all four counties and
15 approved by the Hawai'i State Association of Counties, who will
16 provide fiscal expertise and knowledge of county finances and
17 the county workplace. This requirement will enable the effect

1 of proposed benefit changes on the county's workplace and
2 finances to be adequately considered in board decisions.

3 SECTION 2. Section 87A-5, Hawai'i Revised Statutes, is
4 amended to read as follows:

5 "**§87A-5 Composition of board.** The board of trustees of the
6 employer-union health benefits trust fund shall consist of ten
7 trustees appointed [~~by the governor~~] in accordance with the
8 following procedure:

9 (1) Five trustees[~~7~~] appointed by the governor, one of
10 whom shall represent retirees, to represent employee-
11 beneficiaries and to be selected as follows:

12 (A) Three trustees shall be appointed from a list of
13 two nominees per trustee selected by each of the
14 three exclusive representative organizations that
15 have the largest number of employee-
16 beneficiaries;

17 (B) One trustee shall be appointed from a list of two
18 nominees selected by mutual agreement of the
19 remaining exclusive employee representative
20 organizations; and

21 (C) One trustee representing retirees shall be
22 appointed from a list of two nominees selected by
23 mutual agreement of all eligible exclusive
24 representatives; and

1 (2) Five trustees to represent public employers~~[-]~~, four of
2 whom shall be appointed by the governor, and one of whom
3 shall be appointed by unanimous agreement of the mayors of
4 each of the four counties and approved by the Hawai'i state
5 association of counties to represent the city and county
6 of Honolulu and the counties of Hawai'i, Maui, and Kaua'i.

7 Section 26-34 shall not apply to board member selection and
8 terms. Notwithstanding any other provision of this section, no
9 exclusive representative of a bargaining unit that sponsors or
10 participates in a voluntary employee beneficiary association
11 shall be eligible to select nominees or to be represented by a
12 trustee on the board.

13 As used in this section, the term "exclusive
14 representative" shall have the same meaning as in section 89-2."

15 SECTION 3. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 4. This Act shall take effect upon its approval.

18 INTRODUCED BY: _____

JUSTIFICATION SHEET

PROPOSER: County of Kaua'i

TITLE: RELATING TO THE PENAL CODE.

PURPOSE: To protect firefighters and water safety officers while in the line of performing their job duties.

MEANS: Amend sections 707-700, 707-712.5, and 707-712.6, Hawai'i Revised Statutes.

JUSTIFICATION: The intent of this legislation is to protect firefighters and water safety officers from harm, who may be perpetrated by those they assist while performing their job duties.

Firefighters and water safety officers are vital to the health and safety of the community they serve; whether it may be a resident or visitor, everyone benefits from their services. When firefighters and water safety officers reach the site of an emergency that is in progress, they must perform their duties while focusing on their own safety. In certain situations, they must work in difficult hostile and volatile situations, which often stem from drug abuse or domestic violence cases, to deflate rising levels of emotionalism, often times escalating into violence, and victimizing firefighters and water safety officers. Water safety officers have been confronted from irate members of the public demanding that water safety officers have no right to direct them to safer places during high surf or bad conditions.

Recently in the state of Illinois, a mob of 300 assaulted police and firefighters with fireworks by aiming fireworks towards them; and in California, a firefighter was assaulted by a suspect who was arrested for burglary as well as a felony battery of a fireman.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO THE PENAL CODE.

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

1 SECTION 1. Section 707-700, Hawai'i Revised Statutes, is
2 amended by adding new definition to be appropriately inserted
3 and to read as follows:

4 ""Water safety officer" means any public servant employed
5 by the United States, the State or any County as a
6 lifeguard or person authorized to conduct water rescue or
7 ocean safety functions."

8 SECTION 2. Section 707-700, Hawai'i Revised Statutes,
9 is amended by adding a new definition to be appropriately
10 inserted and to read as follows:

11 ""Firefighter" shall have the same meaning as set forth in
12 Section 710-1012, Hawai'i Revised Statutes."

13 SECTION 3. Section 707-712.5, Hawai'i Revised Statutes,
14 is amended to read as follows:

15 Assault against a law enforcement officer, firefighter, or
16 water safety officer in the first degree.

1 (1) A person commits the offense of assault against a law
2 enforcement officer, firefighter, or water safety
3 officer in the first degree if the person:

4 (a) Intentionally or knowingly causes bodily injury
5 to a law enforcement officer, firefighter, or
6 water safety officer who is engaged in the
7 performance of duty; or

8 (b) Recklessly or negligently causes, with a
9 dangerous instrument, bodily injury to a law
10 enforcement officer, firefighter, or water safety
11 officer who is engaged in the performance of
12 duty.

13 (2) Assault of a law enforcement officer, firefighter, or
14 water safety officer in the first degree is a class C
15 felony. The court shall, at a minimum, sentence the
16 person who has been convicted of this offense to:

17 (a) An indeterminate term of imprisonment of five
18 years, pursuant to section 706-660; or

19 (b) Five years probation, with conditions to include
20 a term of imprisonment of not less than thirty
21 days without possibility of suspension of
22 sentence.

23 SECTION 4. Section 707-712.6, Hawai'i Revised Statutes,
24 is amended to read as follows:

1 Assault against a law enforcement officer, firefighter, or
2 water safety officer in the second degree.

3 (1) A person commits the offense of assault against a law
4 enforcement officer, firefighter, or water safety
5 officer in the second degree if the person recklessly
6 causes bodily injury to a law enforcement officer,
7 firefighter, or water safety officer who is engaged in
8 the performance of duty.

9 (2) Assault against a law enforcement officer,
10 firefighter, or water safety officer in the second
11 degree is a misdemeanor. The court shall sentence the
12 person who has been convicted of this offense to a
13 definite term of imprisonment, pursuant to section
14 706-663, of not less than thirty days without
15 possibility of probation or suspension of sentence.

16 SECTION 5. This Act does not affect the rights and duties
17 that matured, penalties that were incurred, and proceedings that
18 were begun before its effective date.

19 SECTION 6. New statutory material is underscored.

20 SECTION 7. This Act shall take effect upon its approval.

21 INTRODUCED BY: _____

JUSTIFICATION SHEET

PROPOSER: County of Kaua'i

TITLE: A BILL FOR AN ACT RELATING TO COUNTIES.

PURPOSE: The purpose of this bill is to extend the power to appoint county liquor administrators to the county liquor control commission.

MEANS: Amend section 281-11.5, Hawai'i Revised Statutes.

JUSTIFICATION: This legislation will allow the counties the authority to determine appropriate appointment and removal procedures for county liquor administrators pursuant to each county's charter. Granting this authority is within the purview of the counties' executive and administrative structure and organization, which is supported and consistent with the principle of county self-governance established in article VIII, section 2 of the Hawai'i Constitution.

A BILL FOR AN ACT

RELATING TO COUNTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

1 SECTION 1. Article VIII, section 2 of the Hawai'i constitution states, in
2 relevant part, that:

3 "Each political subdivision shall have the power to frame and adopt a charter
4 for its own self-government within such limits and under such procedures as may be
5 provided by general law. . . Charter provisions with respect to a political
6 subdivision's executive, legislative and administrative structure and organization
7 shall be superior to statutory provisions, subject to the authority of the legislature
8 to enact general laws allocating and reallocating powers and functions."

9 The purpose of this Act is to allow the counties the authority to determine
10 appropriate appointment and removal procedures for county liquor administrators
11 pursuant to each county's charter. The legislature finds that the grant of such
12 authority is within the purview of the counties' executive and administrative
13 structure and organization, and is therefore supported by and consistent with the
14 principle of county self-governance established in article VIII, section 2 of the
15 Hawai'i constitution.

____.B. NO. _____

1 SECTION 2. Section 281-11.5, Hawai'i Revised Statutes, is amended to read
2 as follows:

3 "§281-11.5 Liquor commission, liquor administrator, and board
4 attorney. (a) The liquor commission or liquor control adjudication board may hire
5 attorneys to assist it in carrying out its administrative functions under this chapter.
6 The assistance may include providing legal advice and prosecuting and defending
7 legal claims under this chapter or arising in connection with this chapter.

8 (b) Subject to chapter 76, a liquor administrator shall be appointed and
9 may be removed by the liquor commission or as prescribed by the charter of each
10 county. The administrator may also be appointed an investigator, and shall be
11 responsible for the operations and activities of the staff.

12 The administrator may:

13 (1) Hire and remove hearing officers, investigators, and clerical and or
14 other assistants as the liquor commission's business may from time to time require,
15 to prescribe their duties, and fix their compensation; and

16 (2) Engage the services of experts and persons engaged in the practice
17 of a profession, if deemed expedient. Every investigator, within the scope of the
18 investigator's duties, shall have the powers of a police officer."

19 SECTION 3. Section 281-17, Hawai'i Revised Statutes, is amended by
20 amending subsection (a) to read as follows:

____.B. NO. _____

1 “(a) The liquor commission, within its own county, shall have the sole
2 jurisdiction, power, authority, and discretion, subject only to this chapter:

3 (1) To grant, refuse, suspend, and revoke any licenses for the manufacture,
4 importation, and sale of liquors;

5 (2) To take appropriate action against a person who, directly or indirectly,
6 manufactures, sells, or purchases any liquor without being authorized pursuant to
7 this chapter; provided that in counties which have established by charter a liquor
8 control adjudication board, the board shall have the jurisdiction, power, authority,
9 and discretion to hear and determine administrative complaints of the director
10 regarding violations of the liquor laws of the State or of the rules of the liquor
11 commission, and impose penalties for violations thereof as may be provided by law;

12 (3) To control, supervise, and regulate the manufacture, importation, and sale of
13 liquors by investigation, enforcement, and education; provided that any educational
14 program shall be limited to the commission staff, commissioners, liquor control
15 adjudication board members, licensees and their employees and shall be financed
16 through the money collected from the assessment of fines against licensees;
17 provided that fine moneys, not to exceed ten per cent a year of fines accumulated,
18 may be used to fund public liquor related educational or enforcement programs;

19 (4) From time to time to make, amend, and repeal such rules, not inconsistent
20 with this chapter, as in the judgment of the commission seem appropriate for
21 carrying out this chapter and for the efficient administration thereof, and the

____.B. NO. _____

1 proper conduct of the business of all licensees, including every matter or thing
2 required to be done or which may be done with the approval or consent or by order
3 or under the direction or supervision of or as prescribed by the commission; which
4 rules, when adopted as provided in chapter 91 shall have the force and effect of law;

5 ~~[(5) Subject to chapter 76, to appoint and remove an administrator, who may~~
6 ~~also be appointed an investigator and who shall be responsible for the operations~~
7 ~~and activities of the staff. The administrator may hire and remove hearing officers,~~
8 ~~investigators, and clerical or other assistants as its business may from time to time~~
9 ~~require, to prescribe their duties, and fix their compensation, to engage the services~~
10 ~~of experts and persons engaged in the practice of a profession, if deemed expedient.~~
11 ~~Every investigator, within the scope of the investigator's duties, shall have the~~
12 ~~powers of a police officer,~~

13 ~~(6)] (5) To limit the number of licenses of any class or kind within the county, or~~
14 ~~the number of licenses of any class or kind to do business in any given locality,~~
15 ~~when in the judgment of the commission such limitations are in the public interest;~~

16 ~~[(7)] (6) To prescribe the nature of the proof to be furnished, the notices to be~~
17 ~~given, and the conditions to be met or observed in case of the issuance of a duplicate~~
18 ~~license in place of one alleged to have been lost or destroyed, including a~~
19 ~~requirement of any indemnity deemed appropriate to the case;~~

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1 ~~[(8)]~~ (7) To fix the hours between which licensed premises of any class or classes
2 may regularly be open for the transaction or business, which shall be uniform
3 throughout the county as to each class respectively;

4 ~~[(9)]~~ (8) To prescribe all forms to be used for the purposes of this chapter not
5 otherwise provided for in this chapter, and the character and manner of keeping of
6 books, records, and accounts to be kept by licensees in any matter pertaining to
7 their business;

8 ~~[(10)]~~ (9) To investigate violations of this chapter, chapter 244D and,
9 notwithstanding any law to the contrary, violations of the applicable department of
10 health's allowable noise levels, through its investigators or otherwise, to include
11 covert operations, and to report violations to the prosecuting officer for prosecution
12 and, where appropriate, the director of taxation to hear and determine complaints
13 against any licensee;

14 ~~[(11)]~~ (10) To prescribe, by rule, the terms, conditions, and circumstances under
15 which persons or any class of persons may be employed by holders of licenses;

16 ~~[(12)]~~ (11) To prescribe, by rule, the term of any license or solicitor's and
17 representative's permit authorized by this chapter, the annual or prorated amount,
18 the manner of payment of fees for the licenses and permits, and the amount of filing
19 fees; and

20 ~~[(13)]~~ (12) To prescribe, by rule, the circumstances and penalty for the
21 unauthorized manufacturing or selling of any liquor."

_____ **B. NO.** _____

1 SECTION 4. Statutory material to be repealed is bracketed and stricken.

2 New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.

4

5 INTRODUCED BY: _____

JUSTIFICATION SHEET

PROPOSER: County of Kaua'i

TITLE: A BILL FOR AN ACT RELATING TO COUNTIES.

PURPOSE: The purpose of this bill is to allow the personnel directors of Kaua'i, Maui, and Hawai'i counties to be appointed and removed by either the merit appeals board or mayor of the county.

MEANS: Amend section 76-75, Hawai'i Revised Statutes.

JUSTIFICATION: This legislation will allow the counties the authority to determine appropriate appointment and removal procedures for county personnel directors pursuant to each county's charter. Granting this authority is within the purview of the counties' executive and administrative structure and organization, which is supported and consistent with the principle of county self-governance established in article VIII, section 2 of the Hawai'i Constitution.

____.B. NO.____

A BILL FOR AN ACT

RELATING TO COUNTIES.

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

1 SECTION 1. Article VIII, section 2 of the Hawai'i constitution states, in
2 relevant part, that:

3 “Each political subdivision shall have the power to frame and adopt a charter
4 for its own self-government within such limits and under such procedures as may be
5 provided by general law. . . Charter provisions with respect to a political
6 subdivision's executive, legislative and administrative structure and organization
7 shall be superior to statutory provisions, subject to the authority of the legislature
8 to enact general laws allocating and reallocating powers and functions.”

9 The purpose of this Act is to allow the counties the authority to determine
10 appropriate appointment and removal procedures for county personnel directors
11 pursuant to each county's charter. The Legislature finds that the grant of such
12 authority is within the purview of the counties' executive and administrative
13 structure and organization, and is therefore supported by and consistent with the
14 principle of county self-governance established in article VIII, section 2 of the
15 Hawai'i constitution.

____.B. NO. _____

1 SECTION 2. Section 76-75, Hawai'i Revised Statutes, is amended to read
2 as follows:

3 "§76-75 Personnel director. [~~The~~] Either the merit appeals board or
4 mayor of each county, as prescribed by the charter of each county, shall appoint and
5 may at pleasure remove a personnel director, who shall be the chief administrative
6 officer of the department of civil service. The director [~~shall~~], at the time of the
7 director's appointment, and thereafter, shall be thoroughly familiar with the
8 principles and methods of personnel administration and shall believe in applying
9 merit principles and scientific administrative methods to public personnel
10 administration."

11 SECTION 3. Statutory material to be repealed is bracketed and stricken.
12 New statutory material is underscored.

13 SECTION 4. This Act shall take effect upon its approval.

14

15

INTRODUCED BY: _____

Hawai'i State Association of Counties (HSAC)
Counties of Kaua'i, Maui, and Hawai'i, and City & County of Honolulu

RESOLUTION URGING THE GOVERNOR AND THE STATE LEGISLATURE TO
MAINTAIN THE COUNTIES' SHARE OF THE TRANSIENT ACCOMMODATIONS TAX.

WHEREAS, the transient accommodations tax is a tax levied by the state on the proceeds derived from furnishing transient accommodations; and

WHEREAS, in the 1990 legislative session, the Hawaii state legislature enacted Act 185 which gave the counties a share of the transient accommodations tax; and

WHEREAS, according to Conference Committee Report 207, the purpose of Act 185 was to provide a more equitable method of sharing state revenues with the counties rather than continuing with the system existing at the time whereby the counties requested financial assistance through grants in aid from the state; and

WHEREAS, in Conference Committee Report 207, it was acknowledged that many of the burdens imposed by tourism fall on the counties including the costs of providing police and fire protection, maintaining county parks, beaches, water systems, roads, sewer systems and other tourism related infrastructure; and

WHEREAS, the county share of the tax also provides more stability to county finances and enables improved budgeting and planning; and

WHEREAS, 44.8% of the total transient accommodations tax collected by the state is distributed to the counties and allocated as follows:

Kauai County	-	14.5%
Hawaii County	-	18.6%
City and County of Honolulu	-	44.1%
Maui County	-	22.8%

and

WHEREAS, on Kauai the transient accommodations tax accounts for approximately 7.8% of Kauai's general fund budget, on Hawaii the transient accommodations tax accounts for approximately 5.5% of Hawaii County's general fund budget, on Oahu the transient accommodations tax accounts for approximately 3.2% of Honolulu's general fund budget, and on Maui the transient accommodations tax accounts for approximately 3.9% of Maui's general fund budget; and

WHEREAS, the state legislature has previously considered suspending the counties' allocation of the transient accommodations tax to balance the state budget and may do so for the 2011-2013 fiscal biennium; and

September 30, 2010

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WHEREAS, maintaining the current allocation of the transient accommodations tax would allow the counties to continue providing essential government services to visitors and residents without significantly raising property taxes; now, therefore,

BE IT RESOLVED by the Hawaii State Association of Counties that it urges the governor and the state legislature to maintain the current allocation of the counties' share of the transient accommodations tax; and

BE IT FINALLY RESOLVED that copies of this Resolution be transmitted to the governor, the president of the state Senate, and the speaker of the House of Representatives.

DEREK KAWAKAMI
President

NESTOR GARCIA
Vice President

DENNIS ONISHI
Secretary

JOSEPH PONTANILLA
Treasurer