



## RESOLUTION

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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 proposed resolution urging the governor and state legislature to preserve the counties' share of the transient accommodations tax, attached as Exhibit H.
- 9. A proposed bill to allow county councils to request that the Hawaii housing finance and development corporation approve an extension of the time within which county councils must approve or disapprove affordable housing project applications, attached as Exhibit I.

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:

Nestor Garcia  
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DATE OF INTRODUCTION:

October 4, 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.lmh:10-093b2

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# 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

\_\_\_\_.B.NO.\_\_\_\_

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.

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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.

\_\_\_\_.B. NO. \_\_\_\_\_

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

.B. NO.

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;

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1           (2) For a second violation within five years of a previous  
2           violation, a fine of not more than \$2,000 or sixty days  
3           imprisonment, or both; and

4           (3) For a third or subsequent violation within five years  
5           of a previous violation, a fine of not more than \$3,000  
6           or ninety days imprisonment, or both."

7           SECTION 3. This Act does not affect rights and duties that  
8           matured, penalties that were incurred, or proceedings that were  
9           begun before its effective date.

10          SECTION 4. New statutory material is underscored.

11          SECTION 5. This Act shall take effect on June 1, 2011.

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INTRODUCED BY: \_\_\_\_\_

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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. \_\_\_\_\_

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## 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.

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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.

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## 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.

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## 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.

\_\_\_\_.B. NO.\_\_\_\_

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## 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 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:

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;~~

\_\_\_\_.B. NO. \_\_\_\_\_

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.\_\_\_\_

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# 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.



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HOUSE CONCURRENT  
RESOLUTION

URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII  
TO PRESERVE THE COUNTIES' SHARE OF THE TRANSIENT  
ACCOMMODATIONS TAX.

1           WHEREAS, the transient accommodations tax is a tax levied  
2 by the state on the proceeds derived from furnishing transient  
3 accommodations; and  
4

5           WHEREAS, in the 1990 legislative session, the Hawaii state  
6 legislature enacted Act 185 which gave the counties a share of  
7 the transient accommodations tax; and  
8

9           WHEREAS, according to Conference Committee Report 207, the  
10 purpose of Act 185 was to provide a more equitable method of  
11 sharing state revenues with the counties rather than continuing  
12 with the system existing at the time whereby the counties  
13 requested financial assistance through grants in aid from the  
14 state; and  
15

16           WHEREAS, the county share of the tax also provides more  
17 stability to county finances and enables improved budgeting and  
18 planning; and  
19

20           WHEREAS, currently, 44.8% of the total transient  
21 accommodations tax collected by the state is distributed to the  
22 counties; of this amount, the revenue is allocated as follows:  
23

24	Kauai County	-	14.5%
25	Hawaii County	-	18.6%
26	City and County of Honolulu	-	44.1%
27	Maui County	-	<u>22.8%</u>
28			100.0%

29  
30 and  
31



## JUSTIFICATION SHEET

**PROPOSER:** Hawai'i State Association of Counties (HSAC)

**TITLE:** A BILL FOR AN ACT RELATING TO HOUSING

**PURPOSE:** Extends the forty-five (45) day window for a legislative body to approve, approve with modification, or disapprove an affordable housing project under Section 201H-38, Hawai'i Revised Statutes, to sixty (60) days.

**MEANS:** Amends Section 201H-38, Hawai'i Revised Statutes.

**JUSTIFICATION:** With the authority granted to the county councils by Act 249 (2007) to modify affordable housing projects, extending the councils' review period to sixty days will produce projects that are better suited to the counties' respective needs while still providing an expedited process.

The forty-five day deadline is inadequate for a responsible review of a project, partly because a significant amount of time is consumed by the notice requirements under Chapter 92, HRS, for scheduling Council and committee meetings.

Passage of this measure would reflect the Legislature's recognition of the scheduling and other limitations imposed on the councils by the Sunshine Law.

This measure only addresses the councils' role in the approval process, which historically has not been the source of delays and increased cost for good affordable housing projects.

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# A BILL FOR AN ACT

RELATING TO HOUSING.

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

1           SECTION 1.        The forty-five day window for a legislative  
2 body to approve, approve with modification, or disapprove an  
3 affordable housing project is too short to have a meaningful  
4 discussion of the project.    Allowing additional days will  
5 provide an expedited review while allowing the legislative body  
6 of a county to do its due diligence in evaluating a project.

7           SECTION 2.        Section 201H-38, Hawai'i Revised Statutes,  
8 is amended by amending subsection (a) to read as follows:

9           "(a) The corporation may develop on behalf of the State or  
10 with an eligible developer, or may assist under a government  
11 assistance program in the development of, housing projects that  
12 shall be exempt from all statutes, ordinances, charter  
13 provisions, and rules of any government agency relating to  
14 planning, zoning, construction standards for subdivisions,  
15 development and improvement of land, and the construction of  
16 dwelling units thereon; provided that:

\_\_\_\_.B. NO. \_\_\_\_\_

- 1           (1) The corporation finds the housing project is  
2           consistent with the purpose and intent of this  
3           chapter, and meets minimum requirements of health and  
4           safety;
  
- 5           (2) The development of the proposed housing project does  
6           not contravene any safety standards, tariffs, or rates  
7           and fees approved by the public utilities commission  
8           for public utilities or of the various boards of water  
9           supply authorized under chapter 54;
  
- 10          (3) The legislative body of the county in which the  
11          housing project is to be situated shall have approved  
12          the project with or without modifications:
  - 13               (A) The legislative body shall approve, approve with  
14               modification, or disapprove the project by  
15               resolution within forty-five days after the  
16               corporation has submitted the preliminary plans  
17               and specifications for the project to the  
18               legislative body[+]; provided that the  
19               legislative body may request the corporation to  
20               approve an extension to sixty day if the  
21               legislative body determines that circumstances

.B. NO.

1           require additional time for review. If on the  
2           forty-sixth day, or sixty-first day in the case  
3           of an approved extension, a project is not  
4           disapproved, it shall be deemed approved by the  
5           legislative body;

6           (B) No action shall be prosecuted or maintained  
7           against any county, its officials, or employees  
8           on account of actions taken by them in reviewing,  
9           approving, modifying, or disapproving the plans  
10          and specifications; and

11          (C) The final plans and specifications for the  
12          project shall be deemed approved by the  
13          legislative body if the final plans and  
14          specifications do not substantially deviate from  
15          the preliminary plans and specifications. The  
16          final plans and specifications for the project  
17          shall constitute the zoning, building,  
18          construction, and subdivision standards for that  
19          project. For purposes of sections 501-85 and  
20          502-17, the executive director of the corporation  
21          or the responsible county official may certify  
22          maps and plans of lands connected with the

.B. NO.           

1           project as having complied with applicable laws  
2           and ordinances relating to consolidation and  
3           subdivision of lands, and the maps and plans  
4           shall be accepted for registration or recordation  
5           by the land court and registrar; and

6           (4) The land use commission shall approve, approve with  
7           modification, or disapprove a boundary change within  
8           forty-five days after the corporation has submitted a  
9           petition to the commission as provided in section  
10          205-4. If on the forty-sixth day the petition is not  
11          disapproved, it shall be deemed approved by the  
12          commission."

13          SECTION 3.       Statutory material to be deleted is  
14          bracketed and stricken. New statutory material is underscored.

15          SECTION 4.       This Act shall take effect upon its  
16          approval.

17

18                           INTRODUCED BY: \_\_\_\_\_