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

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April 17, 2015

The Honorable Ernest Y. Martin
Chair, City & County of Honolulu
Honolulu Hale
530 S. King Street
Honolulu, Hawai'i 96813

Dear Chair Martin and Members of the Honolulu City Council:

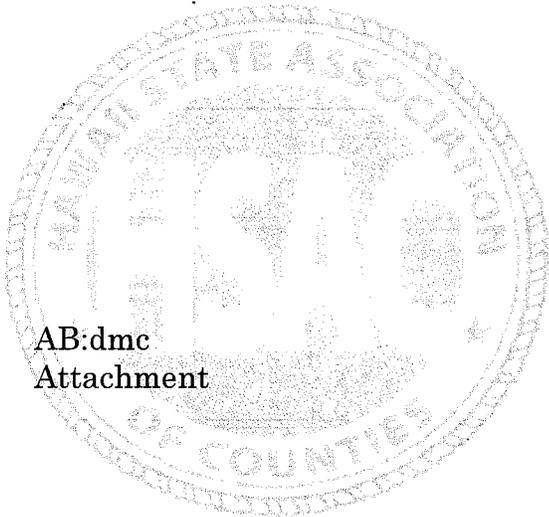
On April 16, 2015, the Executive Committee of the Hawai'i State Association of Counties (HSAC) approved "A RESOLUTION URGING THE HAWAII STATE LEGISLATURE TO REFRAIN FROM ENACTING LEGISLATION THAT INFRINGES UPON COUNTY HOME RULE, OR MANDATES ANY NEW PROGRAM OR INCREASES THE LEVEL OF SERVICE UNDER ANY EXISTING PROGRAM UPON COUNTY GOVERNMENT WITHOUT PROVIDING THAT THE STATE SHARE IN THE COST," which is attached hereto.

Your attention to this matter is appreciated. Should you have any questions, please feel free to contact the Office of the County Clerk, Council Service Division, at (808) 241-4188.

Sincerely,



MEL RAPOZO
HSAC President



AB:dmc
Attachment

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CITY COUNCIL
HONOLULU, HAWAII



Hawai'i State Association of Counties
Counties of Kaua'i, Maui, Hawai'i and City and County of Honolulu



**A RESOLUTION URGING THE HAWAII STATE LEGISLATURE TO
REFRAIN FROM ENACTING LEGISLATION THAT INFRINGES UPON
COUNTY HOME RULE, OR MANDATES ANY NEW PROGRAM OR
INCREASES THE LEVEL OF SERVICE UNDER ANY EXISTING PROGRAM
UPON COUNTY GOVERNMENT WITHOUT PROVIDING THAT THE
STATE SHARE IN THE COST**

WHEREAS, the Hawai'i State Legislature is considering proposals to establish medical marijuana dispensaries in the State of Hawai'i during the Regular Session of 2015; and

WHEREAS, House Bill No. 321, as amended, contains the following language:

“ . . . (f) Neither this section nor any other law, county ordinance, or rule shall prohibit the use of land for medical marijuana dispensaries established and licensed pursuant to section _____-2; provided that the land is otherwise zoned for agriculture, manufacturing, or retail purposes.”; and

WHEREAS, Senate Bill No. 682, as amended, contains the following language:

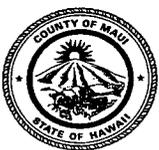
“ . . . (f) Neither this section nor any other law, county ordinance, or rule shall prohibit the use of land for medical marijuana production centers or dispensaries established and licensed pursuant to part _____ of chapter 321.”; and

WHEREAS, if enacted, this provision would apparently ensure that once a medical marijuana dispensary or production center or similar retail business or growing site is authorized and licensed by the Department of Health, no county government could prohibit the establishment of the medical marijuana production center or dispensary or retail business or growing site through the enactment of zoning ordinances; and

WHEREAS, since county zoning agencies might not have any say whatsoever on where the medical marijuana production centers or distribution centers or similar retail business or growing site would be situated, potentially, there would be no way of controlling the impacts to farms or commercial entities as well as communities that would be affected; and

WHEREAS, should this provision be enacted into law, the ability for county governments to enact ordinances relating to a medical marijuana dispensary or production center or similar retail business or growing site, in terms of public health, welfare, and safety, will be extinguished; and

WHEREAS, furthermore, county police departments have indicated that should either of these bills be enacted into law, additional training for police officers will be needed to ensure that a sufficient number will be able to distinguish the various forms of marijuana that would be available for consumption, such as pills, capsules, oils, and edibles, as well as the paraphernalia associated with these forms; and



WHEREAS, neither House Bill No. 321, as amended, nor Senate Bill No. 682, as amended, provide funding to the counties for the training of law enforcement in drug recognition, driving under the influence of marijuana, nor for the enforcement of any new requirements established for these commercial activities; and

WHEREAS, Article VIII, Section 5 of the Hawai'i State Constitution reads:

“Section 5. If any new program or increase in the level of service under an existing program shall be mandated to any of the political subdivisions by the legislature, it shall provide that the State share in the cost.”; and

WHEREAS, arguably, the enactment of either House Bill No. 321, as amended, or Senate Bill No. 682, as amended, would mandate an increase in the level of service under an existing program provided by the political subdivisions of the State; and

WHEREAS, the enactment of either House Bill No. 321, as amended, or Senate Bill No. 682, as amended, would violate the principle of home rule and establish an unfunded mandate upon the counties; now, therefore,

BE IT RESOLVED by the Hawai'i State Associations of Counties, convened at its Executive Committee Meeting of April 16, 2015, that this body hereby urges the Hawai'i State Legislature to refrain from enacting any measure that violate the principle of home rule or establish an unfunded mandate upon the counties; and

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted to each member of the Hawai'i State Legislature, the Governor of the State of Hawai'i, and the Mayors and Chairs of the Councils of the Counties of Hawai'i, Kaua'i, and Maui and the City and County of Honolulu.

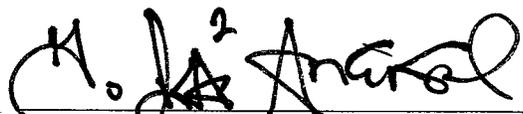
INTRODUCED BY:



Mel Rapozo, President



Dennis "Fresh" Onishi, Vice President



Ikaika Anderson, Secretary



Michael P. Victorino, Treasurer

Date:

April 16, 2015