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LEGISLATIVE REFERENCE BUREAU
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Written Testimony Only

SB2399

RELATING TO STATUTORY REVISION: AMENDING OR REPEALING VARIOUS PROVISIONS OF THE HAWAII REVISED STATUTES AND THE SESSION LAWS OF HAWAII FOR THE PURPOSE OF CORRECTING ERRORS AND REFERENCES, CLARIFYING LANGUAGE, AND DELETING OBSOLETE OR UNNECESSARY PROVISIONS

Testimony by the Legislative Reference Bureau
Ken H. Takayama, Acting Director

Presented to the House Committee on Judiciary

Tuesday, March 11, 2008, 2:00 p.m.
Conference Room 325

Chair Waters and Members of the Committee:

Thank you for the opportunity to testify on the proposed statutory revision bill. Senate Bill No. 2399 is submitted pursuant to chapter 23G of the Hawaii Revised Statutes. We are in support of this bill.

All amendments are of a purely technical nature and correct errors, omissions or obsolete law. As is the case each year, the revision bill was reviewed by the Office of the Attorney General. The rationale for each amendment proposed by this bill accompanies this testimony as an attachment.

The Bureau stands ready to assist the Committee in preparing the committee report and any changes to the revision bill the Committee deems appropriate. Should the Committee have any questions, please contact Irvin Komamura by phone at ext. 70685 or by email at komamura@hawaii.capitol.gov.

Attachment

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**SUMMARY OF AMENDMENTS MADE IN SB2399
(STATUTORY REVISION BILL)**

SECTION 1. Section 10-27, HRS, allows any resolution or resolutions authorizing the issuance of revenue bonds adopted by the board of trustees of the office of Hawaiian affairs to contain certain covenants. Paragraph (10) provides that a covenant may allow for "A procedure by which the terms and conditions of the bond resolution or indenture may be subsequently amended or modified with the consent of the board, the vote or written assent of the holders of bonds or any proportion of the holder, or any trustee thereof".

Paragraph (10) of section 10-27, HRS, should be amended to change the term "holder" to "holders" to be consistent within the sentence and the section.

SECTION 2. Section 11-191, HRS, contains definitions for part XII of chapter 11, HRS, relating to election campaign contributions and expenditures. L 2007, c 200, §2(2), redesignated paragraphs and subparagraphs in the definition of "expenditure". In paragraph (1)(C), the revisor's substitution of "subparagraph (A)" for "paragraph (1)" should be ratified to comport to the redesignated paragraphs and subparagraphs.

SECTION 3. L 2006, c 229, repeals chapter 485, HRS, the Uniform Securities Act (Modified) and replaces it with chapter 485A, HRS, the Uniform Securities Act, effective July 1, 2008. Section 28-8.3(a)(9), HRS, refers to chapter 485, HRS, and should be amended to change the reference to chapter 485A, HRS.

In addition, section 28-8.3, HRS, is to be repealed and reenacted on June 30, 2010, pursuant to L 2006, c 306, §1. The amendment to change the reference from chapter 485 to chapter 485A should be exempted from the repeal and reenactment provisions of L 2006, c 306.

SECTION 4. L Sp 2007, c 9, §1, added two sections to chapter 150A, HRS. One of the sections, section 150A-4.5, HRS, establishes the pest inspection, quarantine, and eradication fund.

The other section, section 150A-5.3, HRS, establishes fees and charges for deposit to the fund, but as enacted, references the fund as the "pest control, quarantine, and eradication fund". Section 150A-5.3, HRS, should be amended to ratify the revisor's substitution of the word "inspection" for "control" to conform to the name of the fund.

SECTION 5. Section 237-4(a), HRS, defining what constitutes sales at "wholesale" under the general excise tax law, states in paragraph (8)(C) that "Subparagraphs (A) and (C) shall be repealed on January 1, 2006". Section 237-4, HRS, has not been amended to delete or extend the repealed provisions, and, by operation of law, subparagraphs (A) and (C) are repealed.

Section 237-4(a)(8)(A) and (C), HRS, should be formally deleted as functus.

SECTION 6. Section 237-13(6), HRS, relating to the imposition of the general excise tax on service businesses, states in subparagraph (C) that "This subparagraph shall be repealed on January 1, 2006". Section 237-13, HRS, has not been amended to delete or extend this repealed provision, and by operation of law, paragraph (6)(C) is repealed.

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Section 237-13(6)(C), HRS, should be formally deleted as functus, and the subsequent paragraph (6)(D) and (E) should be renumbered (6)(C) and (D), respectively.

SECTION 7. Section 237-14.5(a), HRS, contains a reference to section 237-13(6)(D), HRS, and should be amended by replacing the reference with section 237-13(6)(C) to conform to the amendments made to section 237-13(6), HRS, in section 6 of this bill.

SECTION 8. Section 239-2, HRS, contains a reference to section 237-13(6)(E), HRS, and should be amended by replacing the reference with section 237-13(6)(D) to conform to the amendments made to section 237-13(6), HRS, in section 6 of this bill.

SECTION 9. Section 239-4.5(a), HRS, contains a reference to section 237-13(6)(D), HRS, and should be amended by replacing the reference with section 237-13(6)(C) to conform to the amendments made to section 237-13(6), HRS, in section 6 of this bill.

SECTION 10. Section 239-5(c), HRS, contains references to section 237-13(6)(D), HRS, and should be amended by replacing the references with section 237-13(6)(C) to conform to the amendments made to section 237-13(6), HRS, in section 6 of this bill.

SECTION 11. Section 286-56, HRS, relating to official cars of the State or county, states that "the motor vehicle shall bear the inscription provided for in sections 105-6 to 105-9". While sections 105-6 to 105-8, HRS, relate to the inscription on state and county motor vehicles and the character of the inscription, section 105-9, HRS, relates to the duty of carrying out sections 105-6 to 105-8, HRS.

As section 105-9, HRS, does not pertain to the actual inscription on official cars, section 286-56, HRS, should be amended to delete the reference to section 105-9, HRS.

SECTION 12. L 2007, c 115, §7, amended subsections (a) to (d) and (i) to (k) of section 302B-3, HRS, relating to the charter school review panel. Act 115 specifically amended subsection (a) to provide that "Notwithstanding section 302B-9, the panel shall be subject to chapter 92". However, subsection (l), which was not amended or deleted by Act 115, provides that "the panel shall be exempt from chapter 92".

Subsection (l) should be amended to conform to the L 2007, c 115 amendment.

In addition, as there was no paragraph (10) in subsection (b) as amended by Act 115, the revisor's substitution of paragraph "(9)" for paragraph "(10)" in the proviso following paragraph (9) should be ratified.

SECTION 13. L 2007, c 56, §2, established the candidate advisory council for the board of regents of the University of Hawaii in section 304A-104.5, HRS. Subsection (f) of section 304A-104.5, HRS, states in the proviso after paragraph (7) that "individuals who are or have served as members of the executive councils or boards for the organizations under paragraphs (4) and (5) within the last five years immediately preceding the establishment or a vacancy on the candidate advisory council for which the persons may be qualified to fill shall not be eligible to serve as members of the candidate advisory council."

For clarity, this proviso should be amended to read "immediately preceding the establishment of or a vacancy on the candidate advisory council for which the persons"

SECTION 14. L 2007, c 285, increased the size of eligible deposit beverage containers for the deposit beverage container program from sixty-four to sixty-eight fluid ounces and amended the definition of "deposit beverage container" in section 342G-101, HRS, which includes glass containers, from sixty-four to sixty-eight fluid ounces. Act 285 inadvertently failed to amend the definition of "deposit glass beverage container" in section 342G-81, HRS, also subject to the deposit beverage container program, which contains references to "sixty-four ounces".

Section 342G-81, HRS, should be amended to change "sixty-four ounces" to "sixty-eight fluid ounces" in the definition of "deposit glass beverage container" to make the section consistent with the amendment made by Act 285 to section 302G-101, HRS.

In addition, paragraph (2) of the definition should be amended to ratify the revisor's substitution of "part VIII" for "parts A and B", as originally enacted by L 2002, c 176, §5, to properly reference the deposit beverage container program, which is part VIII of chapter 342G.

SECTION 15. L 2006, c 265, §1, amended section 346-53, HRS, by adding a new subsection (d) and redesignating subsections (d) to (g) as subsections (e) to (h). Section 346-51, HRS, contains a reference to the former subsection (e) of section 346-53, HRS.

Section 346-51, HRS, should be amended to change "346-53(e)" to "346-53(f)" to make the reference consistent with the amendment made by Act 265.

SECTION 16. Section 421-26, HRS, in chapter 421, relating to agricultural cooperative associations, is entitled "savings clause". However, the text of this savings clause of L 1949, c 234, pertaining to matters existing on May 11, 1949, has been omitted as obsolete.

Section 421-26, HRS, should be formally repealed as obsolete.

SECTION 17. Section 28-8.3, HRS, was amended by L 2004, c 58, §2, subject to repeal and reenactment on June 30, 2007, pursuant to section 14 of Act 58. L 2004, c 58, §14, as amended by L 2005, c 22, §50, was amended by L 2006, c 306, §1 to extend the repeal and reenactment date from June 30, 2007, to June 30, 2010.

L 2004, c 57, §5, also amended section 28-8.3, HRS. L 2005, c 22, §49, amended L 2004, c 57, §17, to specify that the amendments to section 28-8.3, HRS, by L 2004, c 57, were not subject to repeal and reenactment on June 30, 2007, pursuant to L 2004, c 58, §14. However, L 2004, c 57, §17, as amended by L 2005, c 22, §49, has not been amended to reflect the extended repeal and reenactment date of June 30, 2010, made by L 2006, c 306, §1.

L 2004, c 57, §17, as amended by L 2005, c 22, §49, should be amended to change the repeal and reenactment exemption date of section 28-8.3, HRS, from June 30, 2007, to June 30, 2010 to conform to the amendment made by L 2006, c 306, §1.

SECTION 18. Section 89-6, HRS, relating to appropriate bargaining units, was amended by L 2005, c 245, which added a new subsection (f) to establish which bargaining units certain prospective retirees belonged to for purposes of negotiating state and county contributions to a voluntary employees' beneficiary association trust pilot program. The amendment was subject to repeal and reenactment on July 1, 2008, by Act 245. The repeal and reenactment date was extended to July 1, 2009, by L 2007, c 294, §2.

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In addition, the original subsection (f) of section 89-6, HRS, was amended by L 2005, c 202. This amendment, which added the employees of the office of elections to the individuals who shall not be included in any appropriate bargaining unit, was intended to be permanent, but is now subject to repeal and reenactment on July 1, 2009 by L 2007, c 294, §2.

The amendment by L 2005, c 202 to section 89-6(f), HRS, should be exempted from the repeal and reenactment provisions of L 2005, c 245, as amended by L 2007, c 294, §2.

SECTION 19. The prefatory language of L 2007, c 85, §1, states that "section 291-D" is amended by adding a new section. However, "chapter 291D" is actually being amended by adding a new section.

The prefatory language of L 2007, c 85, §1, should be amended to state that "chapter 291D" is being amended by adding a new section.

SECTION 20. L 2007, c 197, made the theft of copper a class C felony, amended sections 445-233 and 445-235, HRS, relating to scrap dealers, and added the definition of "copper" to section 445-231, HRS. Act 197, §7, provided for the repeal and reenactment of sections 445-233 and 445-235, HRS, on July 1, 2009, and for the repeal of the definition of "copper" in section 445-231, HRS, on July 1, 2009, but inadvertently failed to provide for the reenactment of section 445-231, HRS.

L 2007, c 197, §7, should be amended to include section 445-231, HRS, in the sections to be reenacted upon repeal of Act 197 on July 1, 2009.

SECTION 21. The prefatory language of L 2007, c 262, §2, states that "chapter 179D, Hawaii Revised Statutes, is amended by designating section 179-1 to 179-9 as part I". However, "sections 179D-1 to 179D-9" are the sections that were actually being designated as part I.

The prefatory language of L 2007, c 262, §2, should therefore be amended to state that "sections 179D-1 to 179D-9" are designated as part I.

SECTION 22. L 2007, c 264, amended section 328L-2, HRS, by authorizing that some of the tobacco settlement fund moneys go towards the payment of annual operating expenses incurred by the new medical school facility. Act 264 is repealed on June 30, 2011, pursuant to section 4 of that Act. However, Act 264 did not provide for the reenactment of section 328L-2, HRS, on June 30, 2011. Thus, it is unclear whether only the L 2007, c 264 amendment will be repealed, or the underlying statute as well.

To eliminate this ambiguity, L 2007, c 264, §4, should be amended to reenact section 328L-2, HRS, in the form in which it read prior to the L 2007, c 264 amendment.

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