

JAN 28 2009

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# A BILL FOR AN ACT

RELATING TO MEASUREMENTS AND STANDARDS.

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

1           SECTION 1. Section 486-1, Hawaii Revised Statutes, is  
2 amended as follows:

3           1. By amending the definition of "administrator" to read:

4           "Administrator" means the ~~[administering officer of the~~  
5 ~~quality assurance division, or any qualified person so~~  
6 ~~designated by the chairperson.]~~ director of commerce and  
7 consumer affairs."

8           2. By amending the definition of "department" to read:

9           "Department" means the department of ~~[agriculture.]~~  
10 commerce and consumer affairs."

11           3. By repealing the definitions of "board" and  
12 "chairperson".

13           ~~["Board" means the board of agriculture.]~~

14           ~~["Chairperson" includes the chairperson of the board of~~  
15 ~~agriculture and when specifically designated by the chairperson~~  
16 ~~for the purpose of effectuating this chapter, the deputy to the~~  
17 ~~chairperson."]~~



1 SECTION 2. Section 486-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 **"§486-4 Measurement standards branch; administrator.**

4 There shall be a measurement standards branch within the  
5 department. The administrator shall enforce the [~~board's~~  
6 department's rules and administer the branch and such technical  
7 and clerical personnel as are necessary to carry out this  
8 chapter, in accord with the power, authority and duties  
9 delegated by the [~~board.~~] department."

10 SECTION 3. Section 486-33, Hawaii Revised Statutes, is  
11 amended to read as follows:

12 **"§486-33 Injunction.** In addition to any other remedy by  
13 law provided, the [~~chairperson~~] administrator may apply to any  
14 court of competent jurisdiction for, and the court upon hearing  
15 and for cause shown may grant, a temporary or permanent  
16 injunction restraining any person from violating any provision  
17 of the respective parts of this chapter or the rules  
18 [~~promulgated~~] adopted thereunder."

19 SECTION 4. All rights, powers, functions, and duties of  
20 the measurement standards branch of the department of  
21 agriculture are transferred to the department of commerce and  
22 consumer affairs.



1 All officers and employees whose functions are transferred  
2 by this Act shall be transferred with their functions and shall  
3 continue to perform their regular duties upon their transfer,  
4 subject to the state personnel laws and this Act.

5 No officer or employee of the State having tenure shall  
6 suffer any loss of salary, seniority, prior service credit,  
7 vacation, sick leave, or other employee benefit or privilege as  
8 a consequence of this Act, and such officer or employee may be  
9 transferred or appointed to a civil service position without the  
10 necessity of examination; provided that the officer or employee  
11 possesses the minimum qualifications for the position to which  
12 transferred or appointed; and provided that subsequent changes  
13 in status may be made pursuant to applicable civil service and  
14 compensation laws.

15 An officer or employee of the State who does not have  
16 tenure and who may be transferred or appointed to a civil  
17 service position as a consequence of this Act shall become a  
18 civil service employee without the loss of salary, seniority,  
19 prior service credit, vacation, sick leave, or other employee  
20 benefits or privileges and without the necessity of examination;  
21 provided that such officer or employee possesses the minimum



1 qualifications for the position to which transferred or  
2 appointed.

3       If an office or position held by an officer or employee  
4 having tenure is abolished, the officer or employee shall not  
5 thereby be separated from public employment, but shall remain in  
6 the employment of the State with the same pay and classification  
7 and shall be transferred to some other office or position for  
8 which the officer or employee is eligible under the personnel  
9 laws of the State as determined by the head of the department or  
10 the governor.

11       SECTION 5. All appropriations, records, equipment,  
12 machines, files, supplies, contracts, books, papers, documents,  
13 maps, and other personal property heretofore made, used,  
14 acquired, or held by the department of agriculture relating to  
15 the functions transferred to the department of commerce and  
16 consumer affairs shall be transferred with the functions to  
17 which they relate.

18       SECTION 6. All rules, policies, procedures, guidelines,  
19 and other material adopted or developed by the department of  
20 agriculture that are reenacted or made applicable to the  
21 department of commerce and consumer affairs by this Act shall  
22 remain in full force and effect until amended or repealed by the



1 department of commerce and consumer affairs pursuant to chapter  
2 91, Hawaii Revised Statutes. Until such time as these rules are  
3 amended or repealed, every reference to the department of  
4 agriculture, the board of agriculture, the chairperson of the  
5 board of agriculture, or the administering officer of the  
6 quality services division of the department of agriculture in  
7 those rules, policies, procedures, guidelines, and other  
8 material is amended to refer to the department of commerce and  
9 consumer affairs or the director of commerce and consumer  
10 affairs, as appropriate.

11 SECTION 7. All deeds, leases, contracts, loans,  
12 agreements, permits, or other documents executed or entered into  
13 by or on behalf of the department of agriculture, the board of  
14 agriculture, the chairperson of the board of agriculture, or the  
15 administering officer of the quality services division of the  
16 department of agriculture pursuant to the provisions of the  
17 Hawaii Revised Statutes, that are reenacted or made applicable  
18 to the department of commerce and consumer affairs by this Act,  
19 shall remain in full force and effect. Upon the effective date  
20 of this Act, every reference to the department of agriculture,  
21 the board of agriculture, the chairperson of the board of  
22 agriculture, or the administering officer of the quality



1 services division of the department of agriculture therein shall  
2 be construed as a reference to the department of commerce and  
3 consumer affairs or the director of commerce and consumer  
4 affairs, as appropriate.

5 SECTION 8. Upon the effective date of this Act, all fees  
6 collected by the measurement standards branch of the department  
7 of agriculture, or by the department of agriculture on behalf of  
8 the measurement standards branch, shall be deposited into the  
9 compliance resolution fund, established by section 26-9, Hawaii  
10 Revised Statutes.

11 SECTION 9. All unencumbered moneys deposited in any  
12 revolving or special fund controlled by the measurement  
13 standards branch of the department of agriculture shall lapse to  
14 the credit of the compliance resolution special fund,  
15 established by section 26-9, Hawaii Revised Statutes.

16 SECTION 10. Chapter 486, Hawaii Revised Statutes, is  
17 amended by substituting the word "administrator" wherever the  
18 word "board" appears, as the context requires.

19 SECTION 11. This Act does not affect rights and duties  
20 that matured, penalties that were incurred, and proceedings that  
21 were begun, before its effective date.



1           SECTION 12. If any part of this Act is found to be in  
2 conflict with federal requirements that are a prescribed  
3 condition for the allocation of federal funds to the State, the  
4 conflicting part of this Act is inoperative solely to the extent  
5 of the conflict and with respect to the agencies directly  
6 affected, and this finding does not affect the operation of the  
7 remainder of this Act in its application to the agencies  
8 concerned. The rules in effect as a result of this Act shall  
9 meet federal requirements that are a necessary condition to the  
10 receipt of federal funds by the State.

11           SECTION 13. There is appropriated out of the compliance  
12 resolution fund of the State of Hawaii the sum of \$809,149 or so  
13 much thereof as may be necessary for fiscal year 2009-2010 and  
14 the same sum or so much thereof as may be necessary for fiscal  
15 year 2010-2011 for program expenses of the measurement standards  
16 branch.

17           The sums appropriated shall be expended by the department  
18 of commerce and consumer affairs for the purposes of this Act.

19           SECTION 14. Statutory material to be repealed is bracketed  
20 and stricken. New statutory material is underscored.

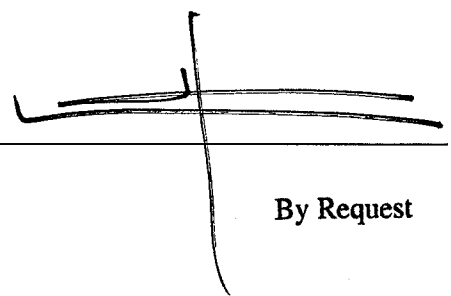
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1 SECTION 15. This Act shall take effect on July 1, 2009.

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

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By Request





**Report Title:**

Measurement Standards Branch; DOA; DCCA; Appropriation

**Description:**

Transfers the measurement standards branch (MSB) of the department of agriculture to the department of commerce and consumer affairs. Provides that all fees collected by or on behalf of the MSB shall be deposited into the compliance resolution fund. Appropriates funds from the compliance resolution fund for MSB program expenses.

