

STAND. COM. REP. NO.

102

Honolulu, Hawaii

FEB 11 2011

RE: S.B. No. 778

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Economic Development and Technology, to which was referred S.B. No. 778 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to repeal Act 155, Session Laws of Hawaii 2010, which:

- (1) Requires all businesses that have excise tax exemptions to register to do business in Hawaii, file their tax returns in a timely manner, and expressly claim their entitlement; and
- (2) Creates a personal trust liability for businesses that use the general excise tax as the basis for increasing their prices to ensure that those funds are paid to the State for the benefit of consumers and businesses.

Your Committee received testimony in support of this measure from The Chamber of Commerce of Hawaii; the Tax Committee of the Hawaii Society of Certified Public Accountants; National Federation of Independent Business; Aloha Society of Association Executives - Hawaii; Chun, Kerr, Dodd, Beaman & Wong; Hawai'i Alliance of Nonprofit Organizations; Hawai'i Community Foundation; and two individuals. Your Committee received comments on this measure from the Department of Taxation and the Tax Foundation of Hawaii.



Your Committee finds that Act 155, while well intended, imposes disproportionate penalties for simple tax filing oversight. Act 155 stipulates possible tax-exemption revocation for a taxpayer that willfully neglects to file the annual G-49 form within twelve months of the due date. Numerous testifiers have raised concerns that this policy does not provide sufficient due process, as it is a significant departure from the existing tax law, and will cause confusion among nonprofits in particular in terms of their tax reporting requirements and tax obligations.

While Act 155 authorized the Director of Taxation to waive the denial of the general excise tax benefit if the failure to comply is due to reasonable cause and not to the willful neglect of the taxpayer, it is not clear how reasonable cause is defined, creating another level of uncertainty.

In addition, the threat of personal liability for responsible persons raises yet another barrier to recruiting qualified volunteer board members for nonprofit organizations, particularly small volunteer organizations.

Your Committee finds that these issues raise serious concerns about the provisions of Act 155, and your Committee is in support of its repeal.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 778 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Respectfully submitted on
behalf of the members of the
Committee on Economic
Development and Technology,

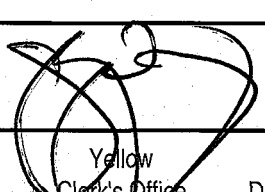


CAROL FUKUNAGA, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Economic Development and Technology
EDT

Bill / Resolution No.:* SB 778	Committee Referral: EDT, WAM	Date: 2/7/11		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <input checked="" type="checkbox"/> Pass, unamended 2312 <input type="checkbox"/> Pass, with amendments 2311 <input type="checkbox"/> Hold 2310 <input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
FUKUNAGA, Carol (C)	✓			
WAKAI, Glenn (VC)	✓			
BAKER, Rosalyn H.	✓			
SOLOMON, Malama	✓			
SLOM, Sam				✓
TOTAL	4	0	0	1
Recommendation: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature: 				
Distribution: Original Yellow Pink Goldenrod File with Committee Report Clerk's Office Drafting Agency Committee File Copy				

*Only one measure per Record of Votes