

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

The Twenty-Sixth Legislature  
Interim 2010/Regular Session 2011  
Senate Committee on Ways & Means and House Committee on Finance  
Wednesday, January 12, 2011  
Informational Briefing  
State Capitol Conference Room 309 (9:00 a.m.)

The Honorable David Y. Ige, Chair, Senate Committee on  
Ways & Means and Committee Members  
The Honorable Marcus R. Oshiro, Chair, House Committee on  
Finance and Committee Members

Aloha Committee Chair Ige, Committee Chair Oshiro, and Members of the Senate  
Ways & Means and Finance Committees:

My name is Derek Kawakami from the County of Kaua'i, and I am here  
today, representing the Hawai'i State Association of Counties (HSAC), along with  
members of the HSAC Executive Committee: Councilmember Angel Pilago from  
Hawai'i County, Councilmember Joseph Pontanilla from Maui County, and  
Councilmember Stanley Chang from the City & County of Honolulu.

Thank you for providing us an opportunity to address you on legislation  
proposed by HSAC and our direction for the upcoming 2011 Legislative Session.  
HSAC requests your support and input on seven (7) proposals which will be the  
focus of our efforts this session.

**1. A BILL FOR AN ACT RELATING TO THE EMPLOYEE'S  
RETIREMENT SYSTEM (ERS) BOARD OF TRUSTEES**

To add a trustee to the board of trustees of the EUTF to represent the  
interests of the Counties. Currently, EUTF board membership, consists of  
five employer trustees who are currently representatives of the State  
Administration. Current law does not include a provision for county  
representation. As employers, the Counties pay a substantial amount to the  
EUTF and should have representation 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, which have caught our  
members by surprise. By adding a trustee to the EUTF to represent the  
Counties, members may be better informed of decisions made and changes to  
the programs that have a direct impact on county interests.

**2. A BILL FOR AN ACT RELATING TO THE EMPLOYER-  
UNION HEALTH BENEFITS TRUST FUND (EUTF)  
BOARD OF TRUSTEES**

To add a trustee to the board of trustees of the ERS to represent the interests of the Counties. Counties contribute a considerable share to the retirement system, which their employees and retirees make up a significant portion of the system's membership. The Counties need county membership on the board of the state employees' retirement system to ensure that the board has representation with knowledge and expertise of county finances and the county workforce when making decisions.

### **3. A BILL FOR AN ACT RELATING TO HOUSING**

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. With the authority granted to the County Councils by Act 249 (2007) to modify affordable housing projects, extending the Council's review period to sixty (60) days will produce projects that are better suited to the respective needs of each County while still providing an expedited process.

The forty-five (45) day deadline is inadequate for a responsible review of a project, partly because a significant amount of time is consumed by notice requirements pursuant to Chapter 92, HRS, regarding scheduling Council and Committee meetings.

Passage of this measure would reflect the Legislature's recognition 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 the development of affordable housing projects.

### **4. A BILL FOR AN ACT RELATING TO NOMINATION PAPERS**

To require that candidates for elective county office include with their nomination papers, 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. This measure will help to ensure that a candidate for elective county office has complied with county laws, including filing of financial disclosure statements, prior to the candidate's name being placed on the ballot.

### **5. A BILL FOR AN ACT RELATING TO THE PENAL CODE (assault against firefighters and water safety officers)**

To protect firefighters and water safety officers while performing their job duties. The intent of this legislation is to protect firefighters and water safety officers from harm, who may be assaulted 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. Water safety officers have been confronted from irate members of the public, upset that the water safety officers are trying to direct them to safer places during high surf or bad conditions. In numerous cases, members of the public become furious as they feel that the water safety officers have no authority to inform them where to go and not to go swimming, etc.

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.

## **6. A BILL FOR AN ACT RELATING TO THE PENAL CODE (replica guns)**

To increase the penalty to a felony for use of a replica gun in a robbery or a terroristic threatening case. Federal law requires that replica guns have orange tips on their barrels, but the tips are often removed by their owners, making them difficult to distinguish them from real firearms. Replica guns are often manufactured to look like shotguns, assault rifles, and semi-automatic pistols and are sometimes used in the commission of crimes, including robberies and terroristic threatening cases. When replica guns are used in serious offenses, victims and witnesses often believe the guns are real and are justifiably terrorized when threatened with such a firearm.

Because of this, making the penalty for using replica guns identical to instances where a firearm was used in the commission of these types of crimes is warranted.

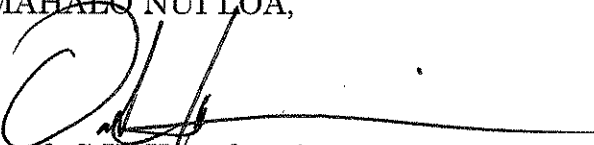
## **7. RESOLUTION URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII TO PRESERVE THE COUNTIES' SHARE OF THE TRANSIENT ACCOMMODATIONS TAX**

The purpose of Act 185 was to provide a more equitable method of sharing state revenues with the counties rather than continuing with the system existing at the time whereby the counties requested financial assistance through "Grants In Aid" from the State. The County's share of the Transient Accommodations Tax (TAT) also provides a stable revenue source and enables the County to properly plan when developing their budgets. Currently, approximately 44.8% of the total Transient Accommodations Tax collected by the State is distributed to the Counties; of this amount, the revenue is approximately allocated as follows: 14.5% Kaua'i County (7.8% of Kaua'i's general fund budget), 22.8% Maui County (3.9% of Maui's general fund budget), 18.6% Hawaii County (5.5% of Hawaii County's general fund budget), and 44.1% City and County of Honolulu (3.2% of Honolulu's general fund budget). Maintaining the current allocation of the Transient Accommodations Tax would allow the Counties to continue providing essential government services to visitors and residents. Losing the current allocation of the Transient Accommodations Tax would require the Counties to significantly raise property taxes, increase fees, and cut programs and services that benefit both residents and visitors alike.

As the organization representing all four County Councils, HSAC recognizes the importance of these proposals and we look forward to discussing our priorities with you. The decisions you make during this 2011 Legislative Session will have a resounding impact on the future of all counties, and we would like to serve as the liaison and resource for information that will aid in your decision-making.

Thank you very much for this opportunity to address you, and for your dedication and hard work. We look forward to working with you as we begin crafting solutions and creating opportunities for our wonderful State and its people.

MAHALO NUI LOA,



Derek S.K. Kawakami  
HSAC President

***Hawai'i State Association of Counties Executive Committee Members:***

President Derek S.K. Kawakami ( <i>Kaua'i County Council</i> ) Ph.: (808) 241-4188 Vice-President Stanley Chang ( <i>Honolulu City Council</i> ) Ph.: (808) 768-5001 Treasurer Joseph Pontanilla ( <i>Maui County Council</i> ) Ph.: (808) 270-5501 Secretary K. Angel Pilago ( <i>Hawai'i County Council</i> ) Ph.: (808) 327-3642
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3371-A Wilcox Road, Lihu'e, Kaua'i, Hawai'i 96766, (808) 241-4188

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

December 23, 2010

The Honorable Shan S. Tsutsui  
Senate President  
Hawai'i State Senate  
Hawai'i State Capitol, Room 409  
415 S. Beretania Street  
Honolulu, HI 96813  
(Via Electronic Mail)

Dear President Tsutsui:

**Subject: 2011 HSAC Legislative Package**

The Hawai'i State Association of Counties Executive Committee would like to humbly request that you introduce the 2011 Hawai'i State Association of Counties (HSAC) Legislative Package which contains the following seven (7) proposals that are of importance to all four counties statewide:

1. A BILL FOR AN ACT RELATING TO THE EMPLOYEE'S RETIREMENT SYSTEM (ERS) BOARD OF TRUSTEES
2. A BILL FOR AN ACT RELATING TO THE EMPLOYER-UNION HEALTH BENEFITS TRUST FUND (EUTF) BOARD OF TRUSTEES
3. A BILL FOR AN ACT RELATING TO HOUSING
4. A BILL FOR AN ACT RELATING TO NOMINATION PAPERS
5. A BILL FOR AN ACT RELATING TO THE PENAL CODE (assault against firefighters and water safety officers)
6. A BILL FOR AN ACT RELATING TO THE PENAL CODE (replica guns)
7. RESOLUTION URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII TO PRESERVE THE COUNTIES' SHARE OF THE TRANSIENT ACCOMMODATIONS TAX

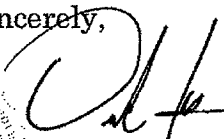
December 23, 2010

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As the non-profit organization representing all the County Councils, HSAC recognizes the importance of these proposals and are willing to discuss our priorities with you further. We look forward to working with you during the upcoming session.

Thank you very much for your assistance on this matter. If you should have any questions, please contact me or my staff, Lianne Parongao, at (808) 241-4188.

Sincerely,

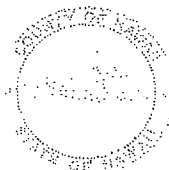


Derek S. K. Kawakami  
HSAC President

Attachments

cc: HSAC Executive Committee Members

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## JUSTIFICATION SHEET

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

**TITLE:** A BILL FOR AN ACT 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.



.B. NO.           

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,



## JUSTIFICATION SHEET

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

**TITLE:** A BILL FOR AN ACT 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.

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

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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



## 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.

.B.NO.           

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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: \_\_\_\_\_

## JUSTIFICATION SHEET

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

**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, Hawai'i 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.

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

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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, Hawai'i 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;

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

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  
13 Hawai'i;

14 ~~[(9)]~~(10) A sworn certification by self-subscribing oath by  
15 the candidate that the candidate is in compliance with  
16 section 831-2, dealing with felons, and is eligible to  
17 run for office; and

18 ~~[(10)]~~(11) The name the candidate wishes printed on the  
19 ballot and the mailing address of the candidate.

20 (b) Signatures of registered voters shall not be counted,  
21 unless they are upon the nomination paper having the format set  
22 forth above, written or printed thereon, and if there are

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

1 separate sheets to be attached to the nomination paper, the  
2 sheets shall have the name of the candidate, the candidate's  
3 party affiliation or nonpartisanship, and the office and  
4 district for which the candidate is running placed thereon by  
5 the chief election officer or the clerk. The nomination paper  
6 and separate sheets shall be provided by the chief election  
7 officer or the clerk.

8 (c) Nomination papers shall not be filed in behalf of any  
9 person for more than one party or for more than one office; nor  
10 shall any person file nomination papers both as a party  
11 candidate and as a nonpartisan candidate.

12 (d) The office and district for which the candidate is  
13 running, the candidate's name, and the candidate's party  
14 affiliation or nonpartisanship may not be changed from that  
15 indicated on the nomination paper and separate sheets. If the  
16 candidate wishes to run for an office or district different from  
17 that for which the nomination paper states or under a different  
18 party affiliation or nonpartisanship, the candidate may request  
19 the appropriate nomination paper from the chief election officer  
20 or clerk and have it signed by the required number of registered  
21 voters.



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

1 (e) Nomination papers that contain alterations or changes  
2 made by anyone other than the chief election officer or the  
3 clerk to the candidate's information, the candidate's party  
4 affiliation or nonpartisanship, the office to which the  
5 candidate seeks nomination, or the oath of loyalty or  
6 affirmation, after the nomination paper was issued by the chief  
7 election officer or clerk, shall be void and will not be  
8 accepted for filing by the chief election officer or clerk.

9 (f) Nomination papers which are incomplete and do not  
10 contain all of the certifications, signatures, and requirements  
11 of this section shall be void and will not be accepted for  
12 filing by the chief election officer or clerk."

13 SECTION 2. Statutory material to be deleted is bracketed.  
14 New statutory material is underscored.

15 SECTION 3. This Act shall take effect upon its approval.

16

17

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

18

## JUSTIFICATION SHEET

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

**TITLE:** A BILL FOR AN ACT 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.

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

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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.

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

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.



JUSTIFICATION SHEET

PROPOSER: Hawaii State Association of Counties

TITLE: RELATING TO THE PENAL CODE

PURPOSE: To increase the penalty for use of a replica gun in a robbery or a terroristic threatening case to a felony.

MEANS: Amend sections 707-700 and 708-800, Hawaii Revised Statutes, by adding a new definition; amend section 707-716, HRS, by amending subsection (1); amend section 708-840, HRS, by amending subsection (1).

JUSTIFICATION: Federal law requires that replica guns have orange tips on their barrels, but the tips are often removed by their owners, making them difficult to distinguish from real firearms. Replica guns are often manufactured to look like shotguns, assault rifles, and semi-automatic pistols and are sometimes used in the commission of crimes, including robberies and terroristic threatening cases.

When replica guns are used in serious offenses victims and witnesses often believe the guns are real and are justifiably terrorized when threatened with such a firearm. Because of this, making the penalty for using replica guns identical to instances where a real firearm was used in the commission of these crimes is warranted.

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

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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, Hawaii Revised Statutes, is  
2 amended by adding a new definition to be appropriately inserted  
3 and to read as follows:

4 "Simulated firearm" means any object that:

- 5 (1) Substantially resembles a firearm;  
6 (2) Can reasonably be perceived to be a firearm; or  
7 (3) Is used or brandished as a firearm."

8 SECTION 2. Section 707-716, Hawaii Revised Statutes, is  
9 amended by amending subsection (1) to read as follows:

10 "(1) A person commits the offense of terroristic  
11 threatening in the first degree if the person commits  
12 terroristic threatening:

- 13 (a) By threatening another person on more than one  
14 occasion for the same or a similar purpose;
- 15 (b) By threats made in a common scheme against different  
16 persons;

1 (c) Against a public servant arising out of the  
2 performance of the public servant's official duties.  
3 For the purposes of this paragraph, "public servant"  
4 includes but is not limited to an educational worker.  
5 "Educational worker" has the same meaning as defined  
6 in section 707-711;

7 (d) Against any emergency medical services personnel who  
8 is engaged in the performance of duty. For purposes  
9 of this paragraph, "emergency medical services  
10 personnel" shall have the same meaning as in section  
11 321-222; or

12 (e) With the use of a dangerous instrument or a simulated  
13 firearm.

14 SECTION 3. Section 708-800, Hawaii Revised Statutes, is  
15 amended by adding a new definition to be appropriately inserted  
16 and to read as follows:

- 17 "Simulated firearm" means any object that:  
18 (1) Substantially resembles a firearm;  
19 (2) Can reasonably be perceived to be a firearm; or  
20 (3) Is used or brandished as a firearm."

21 SECTION 4. Section 708-840, Hawaii Revised Statutes, is  
22 amended by amending subsection (1) to read as follows:



B. NO.           

1       "(1) A person commits the offense of robbery in the first  
2 degree if, in the course of committing theft or non-consensual  
3 taking of a motor vehicle:

4       (a) The person attempts to kill another or intentionally  
5       or knowingly inflicts or attempts to inflict serious  
6       bodily injury upon another;

7       (b) The person is armed with a dangerous instrument or a  
8       simulated firearm and:

9           (i) The person uses force against the person of  
10           anyone present with intent to overcome that  
11           person's physical resistance or physical power of  
12           resistance; or

13           (ii) The person threatens the imminent use of force  
14           against the person of anyone present with intent  
15           to compel acquiescence to the taking of or  
16           escaping with the property;

17       (c) The person uses force against the person of anyone  
18       present with the intent to overcome that person's  
19       physical resistance or physical power of resistance  
20       during the time of a civil defense emergency  
21       proclaimed by the governor pursuant to chapter 128,  
22       within the area covered by the civil defense emergency

1 or during the period of disaster relief under chapter  
2 127; or

3 (d) The person threatens the imminent use of force against  
4 the person of anyone present with intent to compel  
5 acquiescence to the taking of or escaping with the  
6 property during the time of a civil defense emergency  
7 proclaimed by the governor pursuant to chapter 128,  
8 within the area covered by the civil defense emergency  
9 or during the period of disaster relief under chapter  
10 127.

11 SECTION 5. This Act does not affect rights and duties that  
12 matured, penalties that were incurred, and proceedings that were  
13 begun before its effective date.

14 SECTION 6. New statutory material is underscored.

15 SECTION 7. This Act shall take effect on approval.

16

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

BY REQUEST

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## SENATE 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  
32           WHEREAS, on Kauai the transient accommodations tax accounts  
33 for approximately 7.8% of Kauai's general fund budget, on Hawaii

1 the transient accommodations tax accounts for approximately 5.5%  
2 of Hawaii County's general fund budget, on Maui the transient  
3 accommodations tax accounts for approximately 3.9% of Maui's  
4 general fund budget, and on Oahu the transient accommodations  
5 tax accounts for approximately 3.2% of Honolulu's general fund  
6 budget; and

7  
8 WHEREAS, maintaining the current allocation of the  
9 transient accommodations tax would allow the counties to  
10 continue providing essential government services to visitors and  
11 residents; and

12  
13 WHEREAS, losing the current allocation of the transient  
14 accommodations tax would require counties to significantly raise  
15 property taxes; now, therefore,

16  
17 BE IT RESOLVED by the Senate of the Twenty-sixth  
18 Legislature of the State of Hawaii, Regular Session 2011, that  
19 the Governor and the Legislature are urged to preserve the  
20 counties' share of the transient accommodations tax; and

21  
22 BE IT FURTHER RESOLVED that certified copies of this  
23 Resolution be transmitted to the Governor, the Speaker of the  
24 House, the President of the Hawaii State Association of  
25 Counties, and the Mayors of the counties of Kauai, Hawaii,  
26 Honolulu, and Maui.

27  
28  
29

OFFERED BY: \_\_\_\_\_

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SENATE 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

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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:

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24	Kauai County	-	14.5%
25	Hawaii County	-	18.6%
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29  
30 and  
31

