

STAND. COM. REP. NO. 2088

Honolulu, Hawaii

FEB 09 2012

RE: S.B. No. 2238

Honorable Shan S. Tsutsui  
President of the Senate  
Twenty-Sixth State Legislature  
Regular Session of 2012  
State of Hawaii

Sir:

Your Committee on Economic Development and Technology, to which was referred S.B. No. 2238 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.

Your Committee received testimony in support of this measure from The Chamber of Commerce of Hawaii; Hawaii Alliance of Nonprofit Organizations; Chun, Kerr, Dodd, Beaman & Wong; American Council of Life Insurers; 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, Session Laws of Hawaii 2010, imposes disproportionate penalties for simple tax filing oversight. Act 155 stipulates possible tax-exemption revocation for a taxpayer that 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.

Your Committee understands that the Department of Taxation issued a Tax Information Release (TIR) to provide guidance for taxpayers. While the TIR may have mitigated some of the concerns,



it is an administrative pronouncement only and can be withdrawn at any time, further leading to taxpayer uncertainty.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. 2238 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



