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Written Comments

HB109, HD2 RELATING TO HAWAIIAN LANGUAGE

Comments by the Legislative Reference Bureau
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Presented to the House Committee on Finance

Wednesday, February 27, 2013, 11:30 a.m.
Conference Room 308

Chair Luke and Members of the Committee:

While the Legislative Reference Bureau takes no position on this measure, we submit the following comments for your consideration.

The purpose of this bill is to:

- (1) Require that all letterheads, documents, symbols, and emblems of the State and other political subdivisions include accurate and appropriate Hawaiian names and language;
- (2) Establish references for accurate, appropriate, and authentic Hawaiian names and words, including proper Hawaiian spelling and punctuation; and
- (3) Clarify that the full text of bills and other official documents are not required to be written in Hawaiian and that misspelled or incorrectly punctuated Hawaiian words and names shall not invalidate the documents or render them unenforceable.

The Bureau in its capacity as the Revisor of Statutes, which is responsible for publishing the Session Laws, the Hawaii Revised Statutes and its replacement volumes, and the annual Supplements to the Hawaii Revised Statutes, has a few, relatively technical concerns with the portion of the bill that requires the inclusion of accurate and appropriate

Hawaiian names and language when a document or letterhead requires replacement or reprinting, or otherwise requires revision. (See specifically page 6, lines 1-12 of the House Draft 2.)

We respectfully recommend that the requirements of the bill apply prospectively to the Hawaii Revised Statutes and its replacement volumes, the Supplements to the Hawaii Revised Statutes, and the Session Laws of Hawaii to the extent that the macrons and glottal stops in the spelling of Hawaiian words are contained in laws enacted by the Legislature.

We recommend this amendment for the following reasons:

- (1) The production of the Hawaii Revised Statutes, its supplements, and the Session Laws of Hawaii would take considerably longer and cost substantially more. It would be much more time-consuming to ensure that each Hawaiian word in any of these publications had the proper spelling and punctuation. The production of the annual publications would undoubtedly be delayed by the extra effort required. Currently, the delivery of the Session Laws typically occurs in September, and the Hawaii Revised Statutes Supplements and replacement volumes are delivered in December of each year. Longer production time would result in a significant delay in the availability of these publications to the Legislature, legislative staff, other governmental agencies, and the public. It is unknown to what extent the addition of Hawaiian terms and spelling would increase publication costs, but the extra material would invariably add to the publication and already escalating freight costs. Also, it is not clear whether amending one section of the Hawaii Revised Statutes to incorporate the Hawaiian spelling would require amending any other sections in the Hawaii Revised Statutes. The potential impact such amendments would have on the entire Hawaii Revised Statutes is enormous in both time and expense.

Furthermore, the proviso on page 6, lines 8-12, does not take into account the fact that publications such as the Hawaii Revised Statutes and its supplements are revised each year and one hardbound volume of the HRS is replaced annually. The proposed language does not appear to contemplate this occurrence and, as written, could be interpreted to mean that the Bureau would have to revise the *entire set* of the Hawaii Revised Statutes within one year. When the Bureau last reprinted a complete set of the Hawaii Revised Statutes volumes in 1993, the production took more than a year. Given that the HRS has grown considerably since that time, the costs and timeframes are expected to be considerably higher. It is for this very reason that, since 2001, the Bureau has been attempting to replace one volume of the HRS annually. If the Bureau was required to replace the entire HRS set today, the publication cost, without factoring freight costs, would be approximately \$1,120,000.

(2) Moreover, because the addition or removal of diacritical marks can affect the meaning of a word, the Bureau is extremely reluctant to unilaterally alter Hawaiian terms. For example, according to the Pukui-Elbert dictionary (copyright 1986):

- ea (no diacritic marks) means sovereignty, rule, independence, life, spirit
- -ea (pejorative suffix)
- `ea (okina before the "e") means the hawksbill turtle; an infectious disease, or a spray
- `eā (okina before the "e" and kahako over the "a") an interjective
- `e`a (okina before the "e" and the "a") meaning dust, dirt, or spray

Another example from the Pukui-Elbert dictionary is the word "kupuna" meaning grandparent, ancestor, relative or close friend of the grandparent's generation and "kūpuna" which is the plural of kupuna.

From Place Names of Hawaii are "mana" meaning Heiau, Hālawā or supernatural power and "mānā" meaning a land division, or arid; "Wahi-awa" meaning stream and heiau, Kō-loa district, Kaua`i, or milkfish place and "Wahi-a-wā" meaning quadrangle, land section, city, district, forest reserve, etc, central Oahu or place of noise.

(3) Drafting of bills, resolutions, and other legislative documents would be seriously impacted. The Bureau staff at present lacks any particular proficiency in the Hawaiian language, and I suspect the same may be true for the other drafting agencies. Without additional appropriations, we have insufficient funds to specifically hire staff for this purpose. Until bill drafters in all agencies become more familiar with the Hawaiian language, it may be expected that bill drafters may choose not to include glottal stops and macrons, thus leaving the Bureau, as the Revisor of Statutes, in the position of having to substitute its judgment for that of the Legislature.

To ameliorate these concerns, we respectfully suggest the following amendment to H.B. No. 109 (highlighted material):

"SECTION 5. Section 1-13.5, Hawaii Revised Statutes, is amended to read as follows:

"~~{ }~~§1-13.5~~{ }~~ **Hawaiian language; spelling.** ~~[Macrons and glottal stops may be used in the spelling of words or terms in the Hawaiian language in]~~ (a) Effective January 1, 2014, all documents and letterheads prepared by or for state or county agencies or officials[-], to the extent that the documents and letterheads contain Hawaiian language words or names, shall

include accurate, appropriate, and authentic Hawaiian names and words, including proper Hawaiian spelling and punctuation, including but not limited to macrons and glottal stops that punctuate the English word to which they relate; provided that any revision to conform any document or letterhead existing on or before January 1, 2014, to the requirements of this section, may be implemented when the document or letterhead requires replacement or reprinting, or otherwise requires revision; provided further that this Act shall not apply to any replacement, reprinting, or revision of the Hawaii Revised Statutes and the supplements thereto and the Session Laws of Hawaii, except to the extent that glottal stops and macrons are contained in laws as enacted after the effective date of this Act. Any rule, order, policy, or other act, official or otherwise, that prohibits or discourages the use of [~~these symbols~~] accurate, appropriate, and authentic Hawaiian names and words, as required by this section, shall be void.

(b) Hawaiian names and words shall be deemed accurate, appropriate, and authentic when printed in conformance with:

- (1) "Hawaiian Dictionary: Hawaiian-English, English-Hawaiian", by Mary Kawena Pukui and Samuel H. Elbert, University of Hawai'i Press, copyright 1986;
- (2) "Māmaka Kaiāo: A Modern Hawaiian Vocabulary", developed by the Kōmike Hua'ōlelo, the Hawaiian Lexicon Committee; or
- (3) "Place Names of Hawaii", by Mary Kawena Pukui, Samuel H. Elbert, and Esther T. Mookini, University of Hawai'i Press, copyright 1974.

(c) Any Hawaiian names and words that are misspelled or incorrectly punctuated within a document or letterhead subject to this section shall not be deemed to invalidate the document or render it unenforceable. No cause of action shall arise against the State, any county, or any state or county agency, official, or employee for any Hawaiian names and words that are misspelled or incorrectly punctuated."

Finally, to determine the potential effects this measure would have on the operations of the Legislature, we urge the Committee to consult with the respective clerks and the data systems managers of the House and Senate and the different drafting agencies.

Thank you for this opportunity to provide written testimony.