

COUNCIL OF THE COUNTY OF MAUI
POLICY COMMITTEE

December 16, 2011

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Policy Committee, having met on November 30, 2011, makes reference to County Communication 11-32, from Council Chair Danny A. Mateo, relating to matters pertaining to the Hawaii State Association of Counties (“HSAC”).

By correspondence dated November 21, 2011, Councilmember Joseph Pontanilla, Treasurer, HSAC, transmitted a proposed resolution entitled “APPROVING PROPOSALS FROM HAWAII COUNTY AND THE CITY AND COUNTY OF HONOLULU FOR INCLUSION IN THE 2012 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE”. The purpose of the proposed resolution is to approve for inclusion in the HSAC Legislative Package the following proposed State bills and resolutions offered by the Hawaii County Council and the Honolulu City Council:

1. A proposed bill entitled “A BILL FOR AN ACT RELATING TO AGRICULTURAL PRODUCT BRANDING AND COUNTRY OR REGION OF ORIGIN LABELING”. The purpose of the proposed bill is to amend Chapter 486, Hawaii Revised Statutes (“HRS”), relating to branding agricultural products and labeling them with the country or region of origin, to protect Hawaii’s regional crops and the growers’ investment in those crops.
2. A proposed bill entitled “A BILL FOR AN ACT RELATING TO GALLONAGE TAX ON LIQUOR”. The purpose of the proposed bill is to increase the gallonage tax on liquor by 30 percent, collect and transfer the additional revenue to the respective counties, and partially reimburse counties for the cost of handling crashes involving driving under the influence of an intoxicant.
3. A proposed bill entitled “A BILL FOR AN ACT RELATING TO THE EMPLOYEES’ RETIREMENT SYSTEM”. The purpose of the proposed bill is to include county representation on the membership of the Board of Trustees of the Employees’ Retirement System.

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4. A proposed bill entitled "A BILL FOR AN ACT RELATING TO THE EMPLOYER-UNION HEALTH BENEFITS TRUST FUND". The purpose of the proposed bill is to require that one of the five seats on the Board of Trustees of the Hawaii Employer-Union Health Benefits Trust Fund allocated to public employers be occupied by a member appointed by the mayors of all four counties and approved by the HSAC.
5. A proposed bill entitled "A BILL FOR AN ACT RELATING TO ADULT RESIDENTIAL CARE HOMES". The purpose of the proposed bill is to require publication of notice and a public hearing for Type II residential care home applications.
6. A proposed bill entitled "A BILL FOR AN ACT RELATING TO COLLECTIVE BARGAINING". The purpose of the proposed bill is to create a new bargaining unit for water safety officers employed by the state or counties.
7. A proposed bill entitled "A BILL FOR AN ACT RELATING TO LIABILITY". The purpose of the proposed bill is to provide the counties with liability protection for natural conditions on or near public beach parks.
8. A proposed House Concurrent Resolution entitled "URGING THE UNITED STATES GOVERNMENT TO REIMBURSE THE CITY AND COUNTY OF HONOLULU, HAWAII COUNTY, KAUAI COUNTY AND MAUI COUNTY, FOR ALL COSTS RELATING TO THE ASIA PACIFIC ECONOMIC COOPERATION LEADERS MEETING". The purpose of the proposed resolution is to urge the United States ("U.S.") government to reimburse the counties for all costs relating to the Asia Pacific Economic Cooperation ("APEC") Leaders Meeting.
9. A proposed House Concurrent Resolution entitled "URGING THE UNITED STATES DEPARTMENT OF STATE, THE DEPARTMENT OF HOMELAND SECURITY, AND THE UNITED STATES ATTORNEY GENERAL TO EASE VISA RESTRICTIONS FOR THE PEOPLE'S REPUBLIC OF CHINA". The purpose of the proposed resolution is to urge the U.S. Department of State, the Department of

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Homeland Security, and the U.S. Attorney General to ease visa restrictions for the People's Republic of China.

10. A proposed House Concurrent Resolution entitled "URGING THE LEGISLATURE OF THE STATE OF HAWAII TO PROVIDE FUNDING FOR ANY ACTIVITIES MANDATED TO ANY OF THE COUNTIES BY THE STATE OF HAWAII". The purpose of the proposed resolution is to urge the Legislature to provide for cost-sharing for activities mandated by the State of Hawaii to the counties.

11. A proposed House Resolution entitled "URGING THE GOVERNOR AND THE LEGISLATURE OF THE STATE OF HAWAII TO PRESERVE THE COUNTIES' SHARE OF THE TRANSIENT ACCOMMODATIONS TAX". The purpose of the proposed resolution is to urge the Governor and the Legislature to maintain the counties' share of the transient accommodations tax ("TAT").

Your Committee notes that the Council previously adopted Maui County's proposals for the HSAC Legislative Package by Resolutions 11-104, 11-105, and 11-106. The Kauai County Council did not submit proposals for the package.

Your Committee further notes that only those proposals that are approved by all four councils will be included in the HSAC package for introduction to the 2012 State Legislature.

Your Committee noted merit in each of the proposals; however, your Committee expressed concerns that there may be too many proposals being considered. Your Committee sought to limit the focus of the legislative package to certain key items that would be of mutual benefit to all four counties.

Your Committee recommended that the proposed House Concurrent Resolution urging that visa restrictions for the People's Republic of China be eased, not be included in the package. Your Committee further asked that HSAC consider sending its request directly to the relevant Federal departments, rather than relying upon the State Legislature as a conduit for the measure.

With regard to the House Resolution urging preservation of the counties' share of the TAT, your Committee emphasized the importance of a show of solidarity on the

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proposed measure. Your Committee noted that the TAT represents monies earned by the counties that are being recycled back to the counties by the State. Your Committee recommended that this resolution be included in the package. However, your Committee expressed a preference that both House and Senate resolutions be introduced on this issue, rather than limit the counties' options by introducing it in one house only.

Your Committee also recommended that proposals relating to agricultural product branding, the Employees' Retirement System, the Employer-Union Health Benefits Trust Fund, and liability protection, be included in the package. Your Committee felt that these measures address priority concerns for all four counties.

Your Committee recommended that proposals relating to a liquor tax increase, residential care home applications, a new collective bargaining unit for water safety officers, reimbursement of costs for the APEC Leaders Meeting, and funding for State-mandated activities, not be included in the package. Your Committee recommended that these proposals be deleted from the exhibit attached to the proposed resolution.

Your Committee also recommended that the proposed resolution be revised by adding a third "BE IT RESOLVED" paragraph, providing for the transmittal of certified copies of the resolution to each of the counties' mayors, the Council Chairs of the four counties, the Senate President, the Speaker of the House of Representatives, and Maui County's delegation to the State Legislature.

Your Committee voted 8-0 to recommend adoption of the proposed resolution incorporating your Committee's revisions. Committee Chair Hokama, Vice-Chair Carroll, and members Cochran, Couch, Mateo, Pontanilla, Victorino, and White voted "aye". Committee member Baisa was excused.

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating your Committee's recommended revisions. The revised proposed resolution approves five proposals for inclusion in the 2012 HSAC Legislative Package relating to preserving the counties' share of the TAT, agricultural product branding, the Employees' Retirement System, the Employer-Union Health Benefits Trust Fund, and liability protection.

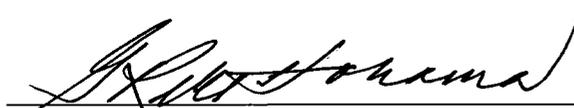
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Your Policy Committee RECOMMENDS that Resolution _____, attached hereto, entitled "APPROVING PROPOSALS FROM HAWAII COUNTY AND THE CITY AND COUNTY OF HONOLULU FOR INCLUSION IN THE 2012 HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE", be ADOPTED.

This report is submitted in accordance with Rule 8 of the Rules of the Council.



G. RIKI HOKAMA, Chair

pol:cr:11003(5)aa:cmn/kmh

Resolution

No. _____

APPROVING PROPOSALS FROM HAWAII COUNTY AND THE
CITY AND COUNTY OF HONOLULU FOR INCLUSION IN THE 2012
HAWAII STATE ASSOCIATION OF COUNTIES LEGISLATIVE PACKAGE

WHEREAS, by Resolutions 11-104, 11-105, and 11-106, adopted on October 7, 2011, the Council approved three proposals for inclusion in the 2012 Hawaii State Association of Counties ("HSAC") Legislative Package, and transmitted those proposals to the HSAC Executive Committee for approval; and

WHEREAS, at its meetings of October 28, 2011, and November 3, 2011, the HSAC Executive Committee approved for inclusion in the 2012 HSAC Legislative Package the three proposals submitted by Maui County, and other proposals submitted by Hawaii County and the City and County of Honolulu; and

WHEREAS, the HSAC Bylaws require that all four counties approve each proposal included in the HSAC Legislative Package; and

WHEREAS, the Council is now considering the proposals submitted by Hawaii County and the City and County of Honolulu, and approved by the HSAC Executive Committee, for inclusion in the 2012 HSAC Legislative Package; now, therefore,

Resolution No. _____

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby approves the proposals, attached as Exhibit "A-1", from Hawaii County and the City and County of Honolulu for inclusion in the 2012 HSAC Legislative Package;
2. That a certified copy of this resolution be transmitted to the HSAC Executive Committee; and
3. That certified copies of this resolution be transmitted to each of the mayors of the four counties, and to the State legislative delegation for the County of Maui.

APPROVED AS TO FORM
AND LEGALITY:



JEFFREY UEOKA
Deputy Corporation Counsel
County of Maui

_____ **B. NO.** _____

A BILL FOR AN ACT

RELATING TO AGRICULTURAL PRODUCT BRANDING AND COUNTRY OR REGION OF ORIGIN LABELING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAI'I:

SECTION 1. Hawai'i Revised Statutes, Chapter 486, Measurement Standards, Part V, Measurement Standards, Uniform Packaging and Labeling is amended to add a new section 486-120.7 to read as follows:

"§486-120.7 Agricultural product branding and country or region of origin labeling.

(a) All agricultural products grown, packaged, or sold in Hawai'i shall conform to the following conditions:

Honey, macadamia nuts, coffee, tea, vanilla, and any other plant or animal products for which any information or name indicating "Hawai'i", "Hawaiian", or any region of Hawai'i, and where the product is less than 100% grown in Hawai'i, shall after the word "Contains:" list on the front label the country or region of origin and the percentage of each country's or region's portion of the product in descending order of percentage and in font size at least equal to one-half the size of the largest font on the front label. (Spices are exempted unless spice is the major portion of the product.)

(b) All agricultural products claiming to be 100% grown in Hawai'i shall be labeled to conform to the following condition:

(1) A minimum of 100% Hawai'i-grown product shall be included in the package for the front label to say, with or without Hawaiian okinas, in a font size at least equal to one-half the size of the largest font:

"100% Hawai'i (product)" or "Hawai'i (product)"

"100% Hawai'i-Grown (product)" or "Hawai'i-Grown (product)";

"100% Grown in Hawai'i";

"100% Hawai'i-Made (product)" or "Hawai'i-Made (product)";

"100% Hawaiian-Made (product)" or "Hawaiian-Made (product)";

"100% Made in Hawai'i"; or

"100% Hawaiian (product)" or "Hawaiian (product)".

(2) Spices are exempted unless spice is the major portion of the product.

(c) All agricultural products claiming to be 100% grown in a single Hawaiian region shall be labeled to conform to the following conditions:

(1) A minimum of 100% of the Hawaiian regionally-grown product shall be included in the package for the front label to say, with or without Hawaiian okinas, in a font size at least equal to one-half the size of the largest font:

(A) Regional names:

“100% (Region) (product)” or “(Region) (product)”;

“100% (Region)-Grown (product)” or “(Region)-Grown (product)”;

“100% (Region)-Made (product)” or “(Region)-Made (product)”; or

“100% (Region) (product)”.

(B) In the case of a blend that contains 100% products from multiple Hawaiian islands:

“100% Hawaiian Islands (product) Blend” or “100% Hawai‘i Islands (product) Blend”.

(2) Spices are exempted unless spice is the major portion of the product.

(d) All packaging and labeling for products claiming to contain some but less than 100% Hawai‘i-grown product shall conform to the following conditions:

(1) A blended plant or animal product labeled with the words “Hawai‘i” “Hawaiian” or the name of any Hawaiian region (e.g. “75% Kona Coffee Blend”) shall:

(A) Contain a minimum of 75% of that named region’s agricultural or animal product, and shall use the word “Blend” in the identification of the product;

(B) List the percentage number of the majority portion of the product (e.g. “75% (region) (product)”); and

(C) List after the word “Contains:” in descending order, and after the majority content, the remainder of the product by percentage and country or Hawaiian region of origin, with or without okinas, for example:

“15% Argentina (product)” and “10% Congo (product)”;

“15% Argentina (product)” and “10% Mau‘i (product)”; or

“25% Mau‘i and Kaua‘i (product)” (The bulk listing of percentages shall be allowed for Hawaiian regions only); and

(D) The labeling required in (1), (2), and (3) above shall be printed on the front label in a font size at least equal to one-half the size of the largest font on the front label.

(2) Any blended product that contains less than 75% of a Hawaiian product shall not use the names “Hawai‘i” “Hawaiian” or any Hawaiian regional name on the front label, except in the contents list which shall identify on the front label the countries or geographic regions of origin for the entire product with the percentage for each country’s or region’s portion of the product in a font size at least equal to one-half the size of the largest font on the front label.”

SECTION 2. Nothing stated on side or back labels on any product subject to this section shall be inconsistent with statements appearing on the front label.

SECTION 3. To the extent the provisions of this section are inconsistent with the labeling requirements of HRS Sections 486-120.5, 486-120.6, or 486-119, or any other statutory section, the provisions of this section shall apply.

SECTION 4. New material is underscored. In printing this ordinance, the underscoring need not be included.

SECTION 5. The effective date of this ACT shall be 18 months from the date the legislation is passed by the State Legislature. The passage of this ACT shall begin the 18-month time period for the effective date to take effect.

INTRODUCED BY: _____

____.B. NO.____

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.

1 SECTION 2. Section 88-24, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§88-24~~ **Composition of board.** The board of trustees shall
4 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,

1 to serve for a term of six years each, one of the
2 terms to expire January 1 of each odd-numbered
3 year[-]; and

4 (4) One member appointed by unanimous agreement of the
5 mayors of each of the four counties and approved by
6 the Hawaii State Association of Counties, subject to
7 the advice and consent of the senate in the same
8 manner as trustees appointed by the governor, to serve
9 for a term of six years, with each term to expire on
10 January 1 of an odd-numbered year. The counties shall
11 be responsible for all necessary expenses, including
12 travel, board, and lodging expenses, and any other
13 costs, incurred in the performance of the member's
14 duties.

15 Each trustee shall serve until the trustee's successor is
16 elected or appointed, as the case may be, and qualified. For
17 the purpose of this section, the term "general employees"
18 includes police officers and firefighters."

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.

____.B. NO. _____

1 SECTION 4. This Act shall take effect on July 1, 2030.

2

3

INTRODUCED BY: _____

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 Hawaii 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 Hawaii State Association of Counties. That
16 member will provide fiscal expertise and knowledge of county
17 finances and the county workplace. This requirement will enable

1 the effect of proposed benefit changes on the county's workplace
2 and finances to be adequately considered in board decisions.

3 SECTION 2. Section 87A-5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 '§87A-5 Composition of board. The board of trustees of
6 the employer-union health benefits trust fund shall consist of
7 ten 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

1 (C) One trustee representing retirees shall be
2 appointed from a list of two nominees selected by
3 mutual agreement of all eligible exclusive
4 representatives; and

5 (2) Five trustees to represent public employers[-], four
6 of whom shall be appointed by the governor, and one of
7 whom shall be appointed by unanimous agreement of the
8 mayors of each of the four counties and approved by
9 the Hawaii State Association of Counties to represent
10 the city and county of Honolulu and the counties of
11 Hawaii, Maui, and Kauai; provided that if the counties
12 do not make an appointment within sixty days, the
13 governor may fill the vacancy.

14 Section 26-34 shall not apply to board member selection and
15 terms. Notwithstanding any other provision of this section, no
16 exclusive representative of a bargaining unit that sponsors or
17 participates in a voluntary employee beneficiary association
18 shall be eligible to select nominees or to be represented by a
19 trustee on the board.

20 As used in this section, the term "exclusive
21 representative" shall have the same meaning as in section 89-2."

1 SECTION 3. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 4. This Act shall take effect on July 1, 2030.

Report Title:

HSAC Package; Employer-Union Health Benefits Trust Fund;
Counties

Description:

Requires one member of the Employer-Union Health Benefits Trust Fund board of trustees to be appointed by agreement of the mayors of the four counties and approved by the Hawaii State Association of Counties. Authorizes the governor to fill the vacancy should it not be filled within sixty days. Effective July 1, 2030. (HB175 HD2)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



____.B. NO.____

A BILL FOR AN ACT

RELATING TO LIABILITY.

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

1 SECTION 1. Act 82, Session Laws of Hawaii 2003, as amended
2 by section 3 of Act 81, Session Laws of Hawaii 2009, is amended
3 by amending the definition of "improved public lands" to read as
4 follows:

5 ""Improved public lands" means lands designated as part of
6 the state park system, parks, and parkways under chapter 184, or
7 as part of a county's park system, and lands which are part of
8 the Hawaii statewide trail and access system under chapter 198D,
9 excluding buildings and structures constructed upon such lands.
10 For purposes of this part, "improved public lands" excludes the
11 ocean and submerged lands [~~and further excludes any public~~
12 ~~beach park falling within Act 190, Session Laws of Hawaii 1996,~~
13 ~~as amended by Act 101, Session Laws of Hawaii 1999]."~~

14 SECTION 2. Act 82, Session Laws of Hawaii 2003, as amended
15 section 5 of Act 152, Session Laws of Hawaii 2007, and as
16 further amended by section 3 of Act 81, Session Laws of Hawaii

1 2009, is further amended by amending section 8 to read as
2 follows:

3 "SECTION 8. This Act shall take effect on July 1,
4 2003[~~and shall be repealed on June 30, 2014~~]."

5 SECTION 3. Act 170, Session Laws of Hawaii 2002, as
6 amended by section 4 of Act 152, Session Laws of Hawaii 2007,
7 and as further amended by section 2 of Act 81 Session Laws of
8 Hawaii 2009, is further amended by amending section 5 to read as
9 follows:

10 "SECTION 5. This Act shall take effect upon its
11 approval[~~provided that section 1 of the Act shall be~~
12 ~~repealed on June 30, 2014~~]."

13 SECTION 4. Statutory material to be repealed is bracketed
14 and stricken.

15 SECTION 5. This Act shall take effect upon its approval.

16

17

INTRODUCED BY: _____

H.R. NO. _____

HOUSE 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

