

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

December 16, 2014

The Honorable Donna Mercado Kim
Senate President, Hawai'i State Legislature
Hawai'i State Capitol, Room 409
415 South Beretania Street
Honolulu, Hawai'i 96813

Dear Senate President Kim:

**SUBJECT: 2015 HAWAII STATE ASSOCIATION OF COUNTIES
(HSAC) LEGISLATIVE PACKAGE**

Transmitted herewith for your consideration is the 2015 Hawai'i State Association of Counties (HSAC) Legislative Package for the 2015 Hawai'i State Legislative Session. The following proposals have been approved by the HSAC Executive Committee and all four County Councils for inclusion in the package:

1. A Bill for an Act Relating to Transient Accommodations Tax
 - Removes the cap on the Counties share of the Transient Accommodations Tax (TAT) and restores the allocated amount to 44.8 per cent of the total TAT revenues collected.

2. A Bill for an Act Relating to the Hawai'i Health Systems Corporation Primary Care Training Program
 - Appropriates operating funds for the Hawai'i Health Systems Corporation Primary Care Training Program.

3. A Bill for an Act Relating to Abuse of Family or Household Member
 - Provides victims of family violence additional time to receive assistance and legal protection before the order for a period of separation expires.

4. A Bill for an Act Relating to Evidence
 - Amends the Hawai'i Rules of Evidence to authorize non-resident property crime victims to testify in criminal proceedings by a live two-way video connection.

5. A Bill for an Act Relating to Zoning
 - Clarifies County zoning authority by distinguishing Single-Family residential use from Single-Family vacation rental use and allows amortization by Ordinance for Single-Family Transient Vacation Rentals over a reasonable period of time.

4396 Rice Street, Suite 209, Līhu'e, Kaua'i, Hawai'i 96766, (808) 241-4188

Senate President Kim
Re: 2015 HSAC Legislative Package
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As a non-profit organization representing all four 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 the State Legislature during the upcoming legislative session, and appreciate your assistance on this matter. Should you have any questions, please feel free to contact the Office of the County Clerk, County of Kaua'i, at (808) 241-4188.

Sincerely,

A handwritten signature in black ink, appearing to read "Mel Rapozo", written in a cursive style.

MEL RAPOZO
HSAC President

AB:cy
Attachments
cc: HSAC Executive Committee Members

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties

TITLE: A Bill for an Act Relating to Transient Accommodations Tax

PURPOSE: This proposed Bill for an Act restores the Counties' share of the Transient Accommodations Tax (TAT) revenue to 44.8 per cent.

MEANS: Amends Section 237D-6.5 of the Hawai'i Revised Statutes (HRS)

JUSTIFICATION: The Transient Accommodations Tax (TAT) is a tax levied on the proceeds derived from furnishing hotel rooms and other transient accommodations. In 1990, Act 185 was enacted by the Legislature to provide the Counties with a portion of the TAT revenue received, establishing a more equitable method of returning earned revenue back to the Counties. Act 103 (1998) then allocated 44.8 per cent of the TAT to the Counties. After the Legislature evaluated the State's fiscal condition in 2011, the Legislature decided to cap the Counties' share at \$93,000,000. This greatly affected the Counties ability to receive TAT revenues, and based on the total amount of collections which has been increasing year after year. For the 2014 legislative session, the Counties strengthened their lobbying efforts to express the importance and need for receiving TAT funds for the purpose of supporting visitor related expenses such as public safety, road maintenance, transportation, etc. However, the Legislature amended the capped amount to \$103,000,000 for Fiscal Year 2014-2015 and Fiscal Year 2015-2016 only. To continue the Counties efforts to lobby for additional TAT funds, this proposed Bill requests that the Counties allocation be restored back to 44.8 per cent of the total revenues collected from the TAT.

A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

1 SECTION 1. Section 237D-6.5, Hawaii Revised Statutes, is
2 amended by amending subsection (b) to read as follows:

3 "(b) Revenues collected under this chapter shall be
4 distributed as follows, with the excess revenues to be deposited
5 into the general fund:

6 (1) \$33,000,000 shall be allocated to the convention center
7 enterprise special fund established under section 201B-
8 8;

9 (2) \$82,000,000 shall be allocated to the tourism special
10 fund established under section 201B-11; provided that:

11 (A) Beginning on July 1, 2012, and ending on June 30,
12 2015, \$2,000,000 shall be expended from the tourism
13 special fund for development and implementation of
14 initiatives to take advantage of expanded visa
15 programs and increased travel opportunities for
16 international visitors to Hawaii;

17 (B) Of the \$82,000,000 allocated:

.B. NO.

1 (i) \$1,000,000 shall be allocated for the
2 operation of a Hawaiian center and the museum
3 of Hawaiian music and dance at the Hawaii
4 convention center; and

5 (ii) 0.5 per cent of the \$82,000,000 shall be
6 transferred to a sub-account in the tourism
7 special fund to provide funding for a safety
8 and security budget, in accordance with the
9 Hawaii tourism strategic plan 2005-2015; and

10 (C) Of the revenues remaining in the tourism special
11 fund after revenues have been deposited as
12 provided in this paragraph and except for any sum
13 authorized by the legislature for expenditure from
14 revenues subject to this paragraph, beginning July
15 1, 2007, funds shall be deposited into the tourism
16 emergency trust fund, established in section 201B-
17 10, in a manner sufficient to maintain a fund
18 balance of \$5,000,000 in the tourism emergency
19 trust fund;

20 (3) [~~\$103,000,000 for fiscal year 2014-2015, \$103,000,000~~
21 ~~for fiscal year 2015-2016, and \$93,000,000 for each~~
22 ~~fiscal year thereafter]~~ 44.8 per cent of the revenues

.B. NO.

1 collected under this chapter shall be allocated as
2 follows: Kauai county shall receive 14.5 per cent,
3 Hawaii county shall receive 18.6 per cent, city and
4 county of Honolulu shall receive 44.1 per cent, and
5 Maui county shall receive 22.8 per cent; provided that
6 commencing with fiscal year 2018-2019, a sum that
7 represents the difference between a county public
8 employer's annual required contribution for the
9 separate trust fund established under section 87A-42
10 and the amount of the county public employer's
11 contributions into that trust fund shall be retained by
12 the state director of finance and deposited to the
13 credit of the county public employer's annual required
14 contribution into that trust fund in each fiscal year,
15 as provided in section 87A-42, if the respective county
16 fails to remit the total amount of the county's
17 required annual contributions, as required under
18 section 87A-43; and

19 (4) Of the excess revenues deposited into the general fund
20 pursuant to this subsection, \$3,000,000 shall be
21 allocated subject to the mutual agreement of the board
22 of land and natural resources and the board of directors

____.B. NO. ____

1 of the Hawaii tourism authority in accordance with the
2 Hawaii tourism authority strategic plan for:

3 (A) The protection, preservation, and enhancement of
4 natural resources important to the visitor
5 industry;

6 (B) Planning, construction, and repair of facilities;
7 and

8 (C) Operation and maintenance costs of public lands
9 connected with enhancing the visitor experience.

10 All transient accommodations taxes shall be paid into the
11 state treasury each month within ten days after collection and
12 shall be kept by the state director of finance in special
13 accounts for distribution as provided in this subsection.

14 As used in this subsection, "fiscal year" means the twelve-
15 month period beginning on July 1 of a calendar year and ending
16 on June 30 of the following calendar year."

17 SECTION 2. Statutory material to be deleted is bracketed
18 and in strikethrough. New statutory material is underscored.

19 SECTION 3. This Act shall take effect upon its
20 approval.

21 INTRODUCED BY: _____

22 paf:kcw:14-211a

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties

TITLE: RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION PRIMARY CARE TRAINING PROGRAM.

PURPOSE: This proposed Bill for an Act appropriates operating funds for the Hawai'i Health Systems Corporation Primary Care Training Program.

MEANS: Appropriates funds out of the general revenues of the State of Hawai'i.

JUSTIFICATION: Access to health care is a critical issue in Hawai'i, especially on the Neighbor Islands. A medical residency program based at Hilo Medical Center will help to ease this shortage by training physicians and providing access to critical rural underserved areas of Hawai'i.

A BILL FOR AN ACT

RELATING TO THE HAWAII HEALTH SYSTEMS CORPORATION PRIMARY CARE TRAINING PROGRAM.

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

1 SECTION 1. The legislature finds that the State faces a
2 severe shortage of healthcare providers. This shortage is
3 particularly acute in the field of primary care, in which most
4 of the healthcare cost savings in prevention and early
5 intervention occur.

6 The legislature further finds that the Hawaii health
7 systems corporation primary care training program is an
8 effective way to reduce the impact of the shortage of primary
9 care providers and improve access to healthcare throughout the
10 State, especially on the neighbor islands. Administered by Hilo
11 medical center, this interdisciplinary program is centered at
12 the Hawaii island family health center, which serves as a
13 training site for family medicine physicians and medical
14 students through the Hawaii island family medicine residency;
15 advanced practice nurses from the school of nursing and dental
16 hygiene at the University of Hawaii at Manoa and the University
17 of Hawaii at Hilo; registered nursing students from the
18 University of Hawaii at Hilo; pharmacy students in clinical
19 pharmacy practice from the University of Hawaii at Hilo's Daniel
20 K. Inouye college of pharmacy; health psychologists from I Ola
21 Lahui, an organization that trains psychologists to meet the
22 needs of residents of Hawaii's rural areas; and baccalaureate

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1 nursing students from the school of nursing at the University of
2 Hawaii at Hilo.

3 This interdisciplinary training model can be expanded to
4 other neighbor island health facilities to generate
5 interdisciplinary teams capable of caring for four times as many
6 patients as independent practicing physicians could
7 alone. Hawaii will benefit greatly as the Hawaii health systems
8 corporation program contributes to training primary care
9 providers in the emerging model of primary care and patient-
10 centered medical homes, and attracts healthcare providers to
11 practice in rural Hawaii, including the neighbor islands.

12 The purpose of this Act is to address the shortage of
13 primary care providers in the State by appropriating funds for
14 the interdisciplinary Hawaii health systems corporation primary
15 care training program at Hilo medical center.

16 SECTION 2. There is appropriated out of the general
17 revenues of the State of Hawaii the sum of \$2,800,000 or so much
18 thereof as may be necessary for fiscal year 2015-2016 for the
19 interdisciplinary Hawaii health systems corporation primary care
20 training program at Hilo medical center.

21 The sum appropriated shall be expended by the Hawaii health
22 systems corporation for the purposes of this Act.

23 SECTION 3. This Act shall take effect on July 1, 2015.

24

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties

TITLE: RELATING TO ABUSE OF FAMILY OR HOUSEHOLD MEMBER.

PURPOSE: This proposed bill for an Act gives victims of family violence additional time to get help and legal protection before the order for a period of separation expires.

MEANS: Amends Hawai'i Revised Statutes Section 709-906 to specify that a period of separation begins when an order is issued and continues until 6:00 p.m. on the second business day following the day the order is issued. Clarifies the definition of a "business day."

JUSTIFICATION: Act 251, Session Laws of Hawai'i 2013, extended the period of separation from 24 hours to 48 hours, and until 4:30 p.m. following a weekend or a legal holiday if the incident occurs on such a day. This change is needed to address the epidemic of domestic abuse. One full business day is not enough time for a victim to obtain a restraining order and to make necessary arrangements. This proposed Bill for an Act extends the period of separation to allow a victim extra time.

A BILL FOR AN ACT

RELATING TO ABUSE OF FAMILY OR HOUSEHOLD MEMBER.

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

1 SECTION 1. Section 709-906, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (1) to read:

4 "(1) It shall be unlawful for any person, singly or in
5 concert, to physically abuse a family or household member or to
6 refuse compliance with the lawful order of a police officer
7 under subsection (4). The police, in investigating any
8 complaint of abuse of a family or household member, upon
9 request, may transport the abused person to a hospital or safe
10 shelter.

11 For the purposes of this section[, "family"]:

12 "Family or household member" means spouses or reciprocal
13 beneficiaries, former spouses or reciprocal beneficiaries,
14 persons in a dating relationship as defined under section 586-1,
15 persons who have a child in common, parents, children, persons
16 related by consanguinity, and persons jointly residing or
17 formerly residing in the same dwelling unit.

18 "Business day" means any calendar day, except Saturday,
19 Sunday, or any state holiday."

20 2. By amending subsection (4) to read:

21 "(4) Any police officer, with or without a warrant, shall
22 take the following course of action, regardless of whether the
23 physical abuse or harm occurred in the officer's presence:

24 (a) The police officer shall make reasonable inquiry of
25 the family or household member upon whom the officer believes
26 physical abuse or harm has been inflicted and other witnesses as
27 there may be;

28 (b) The police officer lawfully shall order the person who
29 the police officer reasonably believes to have inflicted the
30 abuse to leave the premises for a period of separation [~~of~~
31 ~~forty-eight hours~~], during which time the person shall not
32 initiate any contact, either by telephone or in person, with the
33 family or household member; provided that the person is allowed
34 to enter the premises with police escort to collect any
35 necessary personal effects. The period of separation shall
36 commence when the order is issued and expire at 6:00 p.m. on the
37 second business day following the day the order was issued;

1 ~~[(e) When the incident occurs after 12:00 p.m. on any~~
2 ~~Friday, or on any Saturday, Sunday, or legal holiday, the order~~
3 ~~to leave the premises and to initiate no further contact shall~~
4 ~~commence immediately and be in full force, but the forty eight~~
5 ~~hour period shall be enlarged and extended until 4:30 p.m. on~~
6 ~~the first day following the weekend or legal holiday;~~

7 ~~(d)]~~ (c) All persons who are ordered to leave as stated
8 above shall be given a written warning citation stating the
9 date, time, and location of the warning and stating the
10 penalties for violating the warning. A copy of the warning
11 citation shall be retained by the police officer and attached to
12 a written report which shall be submitted in all cases. A third
13 copy of the warning citation shall be given to the abused
14 person;

15 ~~[(e)]~~ (d) If the person so ordered refuses to comply with
16 the order to leave the premises or returns to the premises
17 before the expiration of the period of separation, or if the
18 person so ordered initiates any contact with the abused person,
19 the person shall be placed under arrest for the purpose of
20 preventing further physical abuse or harm to the family or
21 household member; and

22 ~~[(f)]~~ (e) The police officer shall seize all firearms and
23 ammunition that the police officer has reasonable grounds to
24 believe were used or threatened to be used in the commission of
25 an offense under this section."

26 SECTION 2. This Act does not affect rights and duties that
27 matured, penalties that were incurred, and proceedings that were
28 begun before its effective date.

29 SECTION 3. Statutory material to be repealed is bracketed
30 and stricken. New statutory material is underscored.

31 SECTION 4. This Act shall take effect upon its approval.

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties

TITLE: A Bill for an Act Relating to Evidence

PURPOSE: This proposed Bill for an Act authorizes non-resident property crime victims to testify in criminal proceedings by a live two-way video connection.

MEANS: Amends Chapter 626 of the Hawai'i Revised Statutes (HRS), by adding a new rule to Article VI of the Hawai'i Rules of Evidence.

JUSTIFICATION: Visitors to the State of Hawai'i are frequently the target of property crimes, as they are less likely to return to Hawai'i to testify in a criminal case. Reports of crimes committed against visitors, such as items being stolen from vacation rental homes and rental cars, negatively impacts the visitor industry. Allowing non-resident property crime victims to testify in criminal proceedings via a live two-way video connection is a cost-saving approach that will hopefully reduce the frequency of crimes in our communities.

A BILL FOR AN ACT

RELATING TO EVIDENCE.

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

1 SECTION 1. The legislature finds that criminals frequently target
2 tourists for property crimes, as tourists are less likely to testify in a criminal case
3 because they live elsewhere. Thieves target vacation rental homes and rental cars,
4 and reports of crimes committed against tourists significantly damage Hawai'i's
5 visitor industry.

6 The legislature further finds that the fundamental constitutional right of
7 criminal defendants is the opportunity to confront and cross-examine witnesses
8 against them. The legislature finds that this right may be satisfied absent a
9 physical, face-to-face confrontation at trial where denial of such confrontation is
10 necessary to further an important public policy of ensuring public safety for visitors
11 and residents and where the reliability of the testimony is otherwise assured as
12 held in *Maryland v. Craig*, 497 U.S. 836 (1990) by the United States Supreme
13 Court.

14 The purpose of this Act is to authorize a court to allow live video testimony of
15 a victim of property crime if:

16 (1) The crime is a felony;

1 (2) The victim was a nonresident of this State at the time the crime was
2 committed and remains a nonresident at the time of providing testimony;

3 (3) The testimony is limited to identification and ownership of the
4 property taken, the value of the property, lack of consent to take the property, and
5 identification of the person or persons who took the property;

6 (4) The victim testifies under oath;

7 (5) The requisite video connection is two-way, so that the victim can see
8 the defendant and the trier of fact can see the victim; and

9 (6) The defendant and the State have the right to have legal counsel
10 physically present with the victim during the provision of testimony.

11 SECTION 2. Chapter 626, Hawai'i Revised Statutes, is amended by
12 adding a new rule to article VI of the Hawai'i Rules of Evidence to be appropriately
13 designated and to read as follows:

14 "Rule Video testimony of nonresident in a felony property offense. In any
15 prosecution of a felony property offense alleged to have been committed in this State
16 against a person who is a nonresident of this State, the court may order that the
17 testimony of the nonresident be taken under oath through a live two-way video
18 connection to be viewed by the court, the accused, and the trier of fact; provided
19 that:

20 (1) The witness remains a nonresident at the time the testimony is to be
21 given; and

____.B. NO. _____

- 1 (2) The testimony is given only for the purpose of establishing:
- 2 (A) Identification and ownership of the property taken;
- 3 (B) The value of the property;
- 4 (C) Lack of consent to take the property; and
- 5 (D) Identification of the person or persons who took the property.

6 During the entire course of the procedure, the attorneys for the defendant and for
7 the State shall have the right to be physically present with the nonresident and full
8 direct cross-examination shall be available as a matter of right.”

9 SECTION 3. This Act does not affect rights and duties that matured,
10 penalties that were incurred, and proceedings that were begun before its effective
11 date.

12 SECTION 4. The new statutory material is underscored.

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

14

15 Introduced by: _____

____.B. NO. _____

Report Title:

Rules of Evidence; Nonresident Property Crime Victims; Video
Testimony by Witnesses

Description:

Amends the Hawai'i Rules of Evidence to authorize nonresident
property crime victims to testify in criminal proceedings by a live two-
way video connection.

V:\RESOLUTIONS\2012-2014 TERM\2015 Session HSAC Video Testimony Victims of Crime AB dmc.doc

JUSTIFICATION SHEET

PROPOSER: Hawai'i State Association of Counties

TITLE: A Bill for an Act Relating to Zoning

PURPOSE: This proposed Bill for an Act distinguishes Single-Family residential use from Single-Family vacation rental use, and allows amortization by Ordinance for Single-Family Transient Vacation Rentals over a reasonable period of time.

MEANS: Amends Section 46-4 of the Hawai'i Revised Statutes (HRS)

JUSTIFICATION: This proposed Bill was introduced by several Legislators during the 2014 Hawai'i State Legislative Session, addressing the issue regarding Single-Family Transient Vacation Rentals and whether they should be treated as residential or resort units. It is evident that the vacation rental market has grown over the year and has significantly impacted many residential areas. The current statute allows certain vacation rental operations to circumvent many regulatory controls and claim their use is residential. To properly regulate and align non-conforming vacation rentals with other similar uses, this proposal distinguishes Single-Family residential use from Single-Family vacation rental use, and allows amortization by ordinance for Single-Family Transient Vacation Rentals over a reasonable period of time.

____.B. NO. _____

A BILL FOR AN ACT

RELATING TO ZONING.

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

1 SECTION 1. Section 46-4, Hawaii Revised Statutes, is amended by
2 amending subsection (a) to read as follows:

3 “(a) This section and any ordinance, rule, or regulation adopted in
4 accordance with this section shall apply to lands not contained within the forest
5 reserve boundaries as established on January 31, 1957, or as subsequently
6 amended.

7 Zoning in all counties shall be accomplished within the framework of a long-
8 range, comprehensive general plan prepared or being prepared to guide the overall
9 future development of the county. Zoning shall be one of the tools available to the
10 county to put the general plan into effect in an orderly manner. Zoning in the
11 counties of Hawaii, Maui, and Kauai means the establishment of districts of such
12 number, shape, and area, and the adoption of regulations for each district to carry
13 out the purposes of this section. In establishing or regulating the districts, full
14 consideration shall be given to all available data as to soil classification and
15 physical use capabilities of the land to allow and encourage the most beneficial use
16 of the land consonant with good zoning practices. The zoning power granted herein
17 shall be exercised by ordinance which may relate to:

____.B. NO. _____

1 (1) The areas within which agriculture, forestry, industry, trade, and
2 business may be conducted;

3 (2) The areas in which residential uses may be regulated or prohibited;

4 (3) The areas bordering natural watercourses, channels, and streams, in
5 which trades or industries, filling or dumping, erection of structures, and the
6 location of buildings may be prohibited or restricted;

7 (4) The areas in which particular uses may be subjected to special
8 restrictions;

9 (5) The location of buildings and structures designed for specific uses and
10 designation of uses for which buildings and structures may not be used or altered;

11 (6) The location, height, bulk, number of stories, and size of buildings and
12 other structures;

13 (7) The location of roads, schools, and recreation areas;

14 (8) Building setback lines and future street lines;

15 (9) The density and distribution of population;

16 (10) The percentage of a lot that may be occupied, size of yards, courts, and
17 other open spaces;

18 (11) Minimum and maximum lot sizes; and

19 (12) Other regulations the boards or city council find necessary and proper
20 to permit and encourage the orderly development of land resources within their
21 jurisdictions.

____.B. NO. _____

1 The council of any county shall prescribe rules, regulations, and
2 administrative procedures and provide personnel it finds necessary to enforce this
3 section and any ordinance enacted in accordance with this section. The ordinances
4 may be enforced by appropriate fines and penalties, civil or criminal, or by court
5 order at the suit of the county or the owner or owners of real estate directly affected
6 by the ordinances.

7 Any civil fine or penalty provided by ordinance under this section may be
8 imposed by the district court, or by the zoning agency after an opportunity for a
9 hearing pursuant to chapter 91. The proceeding shall not be a prerequisite for any
10 injunctive relief ordered by the circuit court.

11 Nothing in this section shall invalidate any zoning ordinance or regulation
12 adopted by any county or other agency of government pursuant to the statutes in
13 effect prior to July 1, 1957.

14 The powers granted herein shall be liberally construed in favor of the county
15 exercising them, and in such a manner as to promote the orderly development of
16 each county or city and county in accordance with a long-range, comprehensive
17 general plan to ensure the greatest benefit for the State as a whole. This section
18 shall not be construed to limit or repeal any powers of any county to achieve these
19 ends through zoning and building regulations, except insofar as forest and water
20 reserve zones are concerned and as provided in subsections (c) and (d).

____.B. NO. _____

Report Title:

County Zoning; Single-Family Transient Vacation Rentals

Description:

Clarifies County zoning authority by distinguishing Single-Family residential use from Single-Family vacation rental use and allowing amortization by ordinance for Single-Family Transient Vacation Rentals over a reasonable period.

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Amortization AB dmc.doc**