CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1 on H.B. No. 1297

The purpose of this bill is to modify the Governor's Committee on the Employment of the Handicapped to broaden its scope to address the broaden needs of handicapped persons.

The legislature finds that handicapped residents of the State of Hawaii have many needs which have gone unaddressed, and which require appropriate attention and action. The Governor's presently existing Committee on the Employment of the Handicapped addresses some of the matters of crucial importance to handicapped citizens of the State. However, the limited scope of that committee restricts the fuller confrontation of the problems of the handicapped, which are otherwise presently not systematically nor comprehensively considered.

By virtue of this Act, the Committee on the Employment of the Handicapped, which was established by executive order, is redesigned as the Commission on the Handicapped and shall assume the functions prescribed by this Act.

The functions of the Commission on the Handicapped will include but shall not be limited to:

1. Reviewing and assessing the problems and needs, and the availability, of adequate services and resources for the handicapped in the State of Hawaii with regard but not limited to employment, education, health, social services, recreation, civil rights, public facilities, housing, vocational training, and rehabilitation.

2. Advising and making recommendations to the State and the counties on matters relating to the handicapped and on matters which affect the handicapped, including legislative matters.

3. Develop short- and long-term goals in fulfilling the needs of the handicapped, to be undertaken by the Commission in facilitating the coordination of services and programs for the handicapped.

4. Educating the public on the problems, needs, potentials, and rights of the handicapped through affirmative public education programs.

5. Seeking and receiving funds and other forms of assistance from public and private sources to be used in providing improved circumstances for the handicapped in Hawaii.

Your Committee on Conference has amended Section -2, Page 2, Line 12 to read:

". . . The members of the commission shall include at least nine persons who are either handicapped persons representative of various handicapping conditions, parents, or guardians of handicapped persons and shall also include the directors of health . . .".

This amendment was done in order to clarify language in the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1297, S.D.2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1297, S.D. 2, C.D. 1.

Representatives Segawa, Aki, Shito, Ueoka and Sutton,
Managers on the part of the House.

Senators Toyofuku, R. Wong and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 2 on H.B. No. 1678

The purpose of this bill is to make improvements in various aspects of the State Home Renovation and Rehabilitation Program established by Act 178, Session Laws of Hawaii, 1976; and to allow dwelling unit purchasers under State or county housing programs to sell or transfer their units subject to restrictions in effect at the time of their sale

or transfer.

This bill authorizes the Hawaii Housing Authority to utilize participation loans in conjunction with housing rehabilitation and renovation efforts. Your Committee feels that the usage of participation loans will "increase" the total amount available without drawing upon limited State financial resources. In this way, the amount appropriated to this program will have a multiplying effect through the use of resources from the private sector.

Additionally, this measure proposes to ease the plight of the elderly faced with deteriorating dwelling units which the Statewide Housing Study (Daly and Associate, January 1977) makes specific reference to. Certain exemptions would be provided to a borrower who is aged 55 years or older and who is making a loan of $3,500 or less. Specifically, these exemptions include submittal of plans and specifications; performance of work under licensed supervision; and execution of a mortgage securing the loan. Instead, loans made to these elderly would require the following: a written statement, cost estimate, and evidence of a building permit; inspection of the premises by the Authority before and after renovation work (a $50 fee may be deductible from the loan); and provision to the Authority of a chattel mortgage on personal property.

Furthermore, any fees charged for counseling services may be included as part of a home rehabilitation or renovation loan.

This bill also includes a new section to be added to Chapter 359G, Hawaii Revised Statutes. The "buy-back" clause as imposed by the Authority has been amended several times since its inception, thus creating eight different "buy-back" clauses with differing specific provisions. The intent of this provision is to allow purchasers who are bound by previous "buy-back" clauses to modify existing contracts by incorporating the most recent "buy-back" provision. This would provide equity to all purchasers of State and county housing units.

Upon consideration of this bill, your Committee has made the following amendments to SECTION 5 of H.B. No. 1678, S.D. 1:

1. A new subsection (a) has been added to clarify the intent and purpose of this section.

2. Subsection (b) of S.D. 1 has been deleted. Mandating that new restrictions or provisions be applicable to all dwelling units would lead to two major constitutional problems: (1) alienation of property rights; and (2) impairment of obligation of contract.

3. The following changes have been made to subsection (c):

(1) After the word "restrictions" on line 19 of page 6, the words "made by law, ordinance, rule or regulation" have been added to clarify which restriction changes would be applicable under this section.

(2) page 6, line 19 - The time period of "ninety days" has been extended to "one hundred eighty days".

(3) page 6, line 20 - The word "section" has been changed to "Act".

(4) The sentence beginning on line 3, page 7, has been reworded and has been made a separate subsection (c).

It is the intent of your Committee that this subsection apply only to "buy-back" restrictions imposed and not to any other restrictions involving time periods. For example, the interest on purchaser's equity, as provided for in Section 359G-9.2(a), Hawaii Revised Statutes, would be calculated from the date of latest purchase.

(5) The sentence beginning on line 5, page 7, has been reworded and has been made a separate subsection (f).

4. Subsection (d) has been amended to require that written permission also be obtained from the owner of the fee simple or leasehold interest in the land underlying the unit, as the holder of a duly-recorded first mortgage of the dwelling unit need not necessarily be the same holder as that of the fee simple or leasehold land underlying the unit.

5. Other technical and language changes have been made without change in substance.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1678, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1678, S.D. 1, C.D. 1.

Representatives Shito, Aki, Segawa, Ueoka, Ushijima and Narvaes,
Managers on the part of the House.

Senators Young, R. Wong and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 3 on H.B. No. 833

The purpose of this bill is to add a new section to Chapter 188, Part II, Hawaii Revised Statutes, to prohibit persons engaged in net fishing from holding fish within nets underwater for more than 4 hours, and to provide for penalties for any violations thereof.

Under this bill, reasonable inspection of the gill nets would be required so that there is less threat to such marine life as marine turtles, berried crustaceans and other aquatic life that become caught in the nets. Gill net fishing, as commonly practiced in our nearshore waters, involves the setting of the net in the late afternoon or at dusk for subsequent "soaking" overnight. It is generally uncommon for the fish caught in the net to be held in the gill nets underwater for a period as long as 24 hours. Most fishermen, therefore, comply with the purposes of this bill. However, there is concern that other marine and aquatic life may unnecessarily perish if frequent inspection of the nets is not assured. Frequent inspection of the gill nets is intended to mean inspection only, and not the requirement that the nets have to be pulled up out of the water.

Your Committee upon further consideration has made the following amendment to H.B. No. 833, H.D. 1, S.D. 1: Section 188- is amended to make it unlawful for any person engaged in gill net fishing to leave his net unattended for a period of more than twelve hours.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 833, H.D. 1, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 833, H.D. 1, S.D. 1, C.D. 1.

Representatives Kawakami, Inaba, Larsen, Lunasco, Toguchi and Carroll,
Managers on the part of the House.

Senators F. Wong, Hara and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 4 on S.B. No. 1209

The purpose of this bill is to establish a program to stimulate and coordinate the development and growth of aquaculture into a major industry in Hawaii. The effect of this bill is to provide for the planning and coordination of aquaculture in Hawaii, as well as provide assistance to aquaculturists.

Your Committee upon further consideration has made the following amendment to S.B. No. 1209, S.D. 1, H.D. 1, by including a "drop-dead" clause for the Aquaculture Advisory Council, to be set for June 30, 1979.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1209, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1209, S.D. 1, H.D. 1, C.D. 1.

Representatives Kawakami, Lunasco, Morioka, Toguchi, Uechi, and Fong,
Managers on the part of the House.

Senators, Yim, Yamasaki and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 5 on S.B. No. 577

The purpose of this bill is to amend Chapter 291, Hawaii Revised Statutes, by adding a new section to control motor vehicle muffler noise. The new section would prohibit the selling, buying, transferring, using or installing of a muffler or device which amplifies or increases noise emitted from a motor vehicle above that emitted by the original exhaust system.

Your Committee, for clarity, has amended the bill to specify that prohibitions shall apply to muffler use on a public highway, added altering to the prohibitions, and deleted references to buying, transferring, exhaust systems and devices. Your Committee also has reduced the maximum fine applicable to a violation under this section from $2500 to $250.

It is the intent of this bill that any violation of this section shall not be a misdemeanor but shall constitute a violation as defined in Section 701-107, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 577, S.D. 1, H.D.1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 577, S.D. 1, H.D. 1, C.D. 1.

Representatives Blair, Caldito, Larsen, Lunasco and Fong,
Managers on the part of the House.

Senators King, Chong, Nishimura and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 6 on S.B. No. 1202

The purpose of this bill is to qualify the State of Hawaii to participate in the benefits of Public Law 93-205 (Endangered Species Act of 1973) by amending various sections of Chapter 195D of the Hawaii Revised Statutes.

Your Committee has amended the bill by deleting all proposed amendments to Section 195D (b) with the exception of the addition of the words "or threatened" on page 4, line 2.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1202, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1202, H.D. 1, C.D. 1.

Representatives Blair, Garcia, Inaba, Kawakami, Larsen and Carroll,
Managers on the part of the House.

Senators, Nishimura, King, Hulten, F. Wong and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 7 on H.B. No. 672

The purpose of this bill is 1) to provide for a Hawaiian Homes Commission member from the island of Molokai, 2) to provide the department with authorization to hire exempt staff for special needs, and 3) to clarify the personal liability coverage for members of the Hawaiian Homes Commission.

The effect of this bill is to 1) add an additional member to the Commission, bringing the total to eight, and increasing the County of Maui's representation from one to two members, requiring that one of the two shall be a resident of Molokai, 2) provide the department with authorization to hire short-term staff workers to aid the department in accomplishing its established goals and objectives. Personnel with advanced skills and field experience are sometimes required by the department, yet not always on a permanent full-time basis, and 3) delete the specific amount of the bond required of the Commission to furnish bond. Existing statutes already authorize the Governor to set bond requirements, making the amount given in this bill unnecessary. The addition of Commission members to this section along with the Chairman is proposed to clarify existing laws.

With respect to the Commission, your Conference Committee has amended the bill by specifying that the city and county of Honolulu's three members shall be from the

Third; Fourth; and Fifth, Sixth, or Seventh Senatorial Districts. In addition to these three, there will be one member each from Hawaii, Molokai, Maui and Kauai. The eighth member shall be the chairman of the Hawaiian Homes Commission.

Also amended was the Senate's recommendation relating to the short-term hiring of staff workers. Presently, various state departments have been using ten percent of the allocated capital improvement program project funds in the planning process. Your Conference Committee is concerned with the abuse pertaining to the use of this percentage of CIP funds in that departments are utilizing these funds to maintain personnel. Your Committee has stated to the department that it will be required to furnish a project by project breakdown of the CIP usage in their next annual report.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 672, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 672, S.D. 1, C.D. 1.

Representatives Kawakami, Caldito, Garcia, Lunasco, Morioka, and Poepoe,
Managers on the part of the House.

Senators Young, Yim and Anderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 8 on H.B. No. 727

The purpose of this bill is to create a physician and surgeon "cooperative" that is specifically excluded from Chapter 431, Hawaii Revised Statutes. The cooperative would be an organization owned and governed by member physicians and surgeons who enter into a trust agreement to protect each other by interindemnity. "Physician" or "surgeon" means any person licensed under Chapter 453, Hawaii Revised Statutes; or any professional corporation, partnership, or other entity whose stockholders or partners are comprised solely of persons licensed under said Chapter 453; or any hospital owned and operated by any person licensed under said Chapter 453, or any professional corporation, partnership, or other entity whose stockholders or partners are comprised solely of persons licensed under said Chapter 453. It is anticipated that the cooperative could stabilize the cost of medical malpractice insurance. Under the cooperative, a physician or surgeon would initially contribute a lump sum of $20,000 to become a member. The contribution held in trust would be administered by a board of trustees as custodian. Any medical malpractice judgments, settlements and administrative costs would be paid out of the earnings of the contribution. When the earnings are insufficient to cover judgments, settlements and administrative costs, each member would be subject to assessment.

The initial trust corpus shall be $5 million which is equal to the trust corpus of the patient's compensation fund. Since the average initial contribution to the corpus per member must not be less than $20,000, the cooperative can be operable with 250 members.

Your Committee recommends that this bill be amended by deleting the following words from the definition of "physician" or "surgeon";

"or any hospital owned and operated by any person licensed under chapter 453, or any professional corporation, partnership, or other entity whose stockholders or partners are comprised solely of persons licensed under chapter 453."

Your Committee feels that this amendment is necessary for hospitals carry a greater risk of exposure to liability and to permit them to become a member of the cooperative would not be in the best interest of the cooperative, at the present time.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 727, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 727, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Garcia, Ueoka, K. Yamada and Ikeda,
Managers on the part of the House.

Senators Nishimura, Chong and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 9 on H. B. No. 1685

The purpose of this bill is to transfer the responsibility for administering motor carrier safety functions and activities from the Public Utilities Commission to the Department of Transportation and to provide the means for improved coordination of state and county highway safety programs.

This proposed transfer of motor carrier safety regulation resulted from the recommendation of the Legislative Auditor in Audit Report No. 75-6, entitled "Management Audit of the Public Utilities Program, Vol. III, December, 1975." The Legislative Auditor found that the current organization and administration of motor carrier safety regulation under the Public Utilities Commission was ineffective, inefficient and in "a state of shamble." (Vol. III, p. 91)

The purpose of this bill is also in concert with the findings of the Report of the Ninth State Legislature, State of Hawaii, of the Commission on Organization of Government, dated February, 1977.

Your Committee upon further consideration has made the following amendments to H.B. No. 1685, H.D. 2, S.D. 2:

(1) Every common carrier by motor vehicle and every contract carrier by motor vehicle, shall pay to the Public Utilities Commission a fee in April of each year, rather than July and January of each year.

(2) This fee shall be one-eighth of one per cent of the gross revenues from the carrier's business during the preceeding calendar year or $10, whichever is greater. The previous draft had the alternative sum at $15.

(3) The following sentence has been deleted from page 26 of the bill: "All fees shall be assessed on the gross revenues of the carrier on the current year's operations and may be estimated by the Commission if a carrier fails to file a statement as to the revenues received for the six-month periods ending June 30 and December 31 within twenty days after the close of the period."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1685, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1685, H.D. 2, S.D. 2, C.D. 1.

Representatives D. Yamada, Uwaine, Cayetano, Takamura and Ikeda,
Managers on the part of the House.

Senators R. Wong, O'Connor and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 10 on S.B. No. 1059

The purpose of this bill is to make various amendments to the laws relating to health care providers, the medical malpractice insurance system and medical torts in order to more effectively meet the problem of rising medical malpractice insurance rates.

Upon consideration of this measure, your Committee has made a technical amendment to Section 10 by deleting the words "and the limitation of actions for medical torts", appearing on page 13, lines 11 and 12 of the House draft.

The deleted language insulated the patients' compensation fund from liability for a medical tort claim if the statute of limitations had run on the claim. However, the language is surplusage because the section specifically limits the liability of the patients' compensation fund to damages for which a health care provider becomes "legally liable" and no legal liability would arise for a claim made after the statute of limitations had run.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1059, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1059, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, Garcia, Uechi, Ueoka, K. Yamada and Medeiros,
Managers on the part of the House.

Senators Nishimura, Ching, Chong, Hara, Kawasaki, O'Connor, F. Wong, George and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 11 on S. B. No. 1203

The purpose of Section 1 of the bill is to provide that no more than 25 per cent of the total voting stock of banks regulated by the Director of Regulatory Agencies under Chapter 403, Hawaii Revised Statutes shall be held or acquired by foreign corporations or nonresident aliens unless prior written approval is obtained from the Director of Regulatory Agencies.

The purpose of Section 2 of the bill is to extend the same rationale applied to banks to another important segment of the community that provides services to the public. The holding of shares of certain public utility companies, primarily those providing electricity or gas, would also be restricted in the same manner as those of banks, with the exception that for such purposes, a foreign corporation is defined as a corporation organized without the State.

In its present form, Section 2 of the bill can be construed as applying the 25 per cent public utility voting stock ownership limitation to a combined total of all foreign corporations or nonresident aliens rather than a single foreign corporation or single nonresident alien. This interpretation would be contrary to the original intent of the bill as stated in the House of Representatives' Standing Committee Report No. 887, which was to place the 25 per cent restriction on the voting stock holdings of a single foreign corporation or single nonresident alien. To place an aggregate 25 per cent limitation on the holdings of a public utility company's voting stock could create a considerable hardship for both the public utility and the investor since corporations outside the State as a group could conceivably own more than 25 per cent of a public utility's common stock, even though the largest holdings of a single corporation is only 1 per cent or 2 per cent of the voting stock.

Accordingly, your Committee recommends that this bill be amended by clearly stating that the 25 per cent limitation on holdings of public utility voting stock be limited to any single foreign corporation or any single nonresident alien.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1203, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1203, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, Cobb, Garcia, Uechi and Fong,
Managers on the part of the House.

Senators Nishimura, Taira, Takitani and Anderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 12 on S. B. No. 475

The purpose of this bill is to amend Act 130, Session Laws of Hawaii 1976, and Chapter 334, Hawaii Revised Statutes, to provide authority for police officers to take into custody persons who are threatening or attempting suicide and to deliver them to a psychiatric facility for emergency examination and hospitalization; to allow physicians to arrange transportation for patients to a licensed psychiatric facility for further evaluation and possible emergency hospitalization; to further protect a patient's right to privacy; and to clarify procedures relating to civil commitment to a psychiatric facility, such as service of process and notification of relatives.

Your Committee recommends that this bill be amended for technical reasons without affecting any of the substantive provisions therein.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 475, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 475, S.D. 2, H.D. 1, C.D. 1.

Representatives Garcia, Naito, Nakamura, K. Yamada and Ikeda,
Managers on the part of the House.

Senators Nishimura, O'Connor, Chong, and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 13 on H. B. No. 1198

The purpose of this bill is to delete the requirement that an applicant for licensure as a degree granting institution be a non-profit educational corporation. Under this bill, the issuance of a State license would be limited to nationally accredited educational programs of Hawaii and other states.

Your Committee recommends that this bill be amended as follows:

1. Amend Section 1 of the bill by inserting the following phrase in line 12 on page 1 which was inadvertently omitted in S.D. 1:

"[or, if not accredited, that credits granted by the applicant in the specified educational program are accepted as if granted by an accredited institution by not less than three accredited institutions.]"

2. Amend Section 1 of the bill by removing the brackets in lines 2 and 3 on page 2.

3. Amend Section 3 of the bill by deleting the words "or educational institution of another state" in lines 8 and 9 on page 3.

Your Committee on Conference is in accord with the intent and pupose of H.B. No. 1198, H.D. 1, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1198, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Cobb, Naito, Nakamura and Fong,
Managers on the part of the House.

Senators Nishimura, Taketani and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 14 on S. B. No. 1350

The purpose of this bill is to provide that public employees shall be residents of the State for at least one year immediately preceding employment under certain conditions and with certain exceptions as provided therein.

The United States Supreme Court in Shapiro v. Thompson refers to the doctrine of "compelling state interest" relative to the imposition of residency requirements in that particular case. Concurring and dissenting opinions of the Justices variously advance this "compelling state interest" doctrine in Shapiro v. Thompson, and your Committee feels that this same principle can very well be advanced in discussing this bill.

Your Committee finds that in order to maintain consistency in the State's planning for effective resource utilization, some measure of control over unplanned growth in the areas of employment opportunity and new employment must be developed. The State's "resource" of employment, particularly in the public sector, is relatively limited in comparison to that of other states in the Union; as with any other type of limited resource, it should be carefully distributed, and the distribution in this instance should be accomplished in a manner whereby the bonafide residents of the State are the primary beneficiaries.

Your Committee further finds that our State is unique among the fifty states in the Union in that its insular character serves to effectively hinder the mobility of its population. More importantly, this insular character of our State has nurtured an unprecedented type of cultural environment and particular lifestyle which may cause adjustment difficulties for our residents who may contemplate moving to other parts of the nation. These insular influences coupled with large scale in-migration encouraged by our State's perceived desirability as a place in which to live have contributed to a disproportionate increase in the growth of the civilian labor force relative to the growth of the local job market. The result is an aggravated unemployment situation in times of already high unemployment.

In view of our State situation as heretofore described, your Committee contends that there is indeed an economically compelling State interest in the mandate of this bill, the compelling interest being vested in the State's obligation to insure the comfortable economic existence of its residents now and in the future, in the absence or lack of realistic economic alternatives available to them. The limited nature of our State's resources dictates a corollarily moral obligation of our State to make a bonafide effort to carefully plan the allocation of such resources to the full benefit of its bonafide residents who contribute to the general well being of our State. Implicit in this moral obligation is the exhaustion of all efforts and remedies on behalf of bonafide residents.

With respect to the application of this Act, your Committee intends that the University of Hawaii shall insure that whenever the recruitment of academic personnel occurs, out-of-state recruitment shall be carrried out only after a determination is made that the requirements of the position necessitate national recruitment, or only after in-state recruitment efforts fail to produce qualified candidates.

Your Committee upon due consideration has made the following amendments to S.B. No. 1350, S.D. 1, H.D. 2:

(1) The phrase "application for" has been inserted after the word "their" in line 16, page 1 in order to clarify to applicants that they must be residents of the State for one year in order to be considered for employment.

(2) The provision for the exemption of a female resident who marries a non-resident and continues to reside in the State has been expanded to apply to any resident who was a resident of the State for at least one year immediately before marrying a non-resident and who continues to reside in the State.

(3) The residency requirement shall apply to those positions involved in the performance of services in planning and executing measures for the security of Hawaii and the United States.

(4) The residency requirement shall not apply to those persons appointed under section 304-11; provided that APT personnel shall be residents excepting those in positions requiring highly specialized technical and scientific skills and knowledge.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1350, S.D. 1, H.D. 2, as amended herein and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1350, S.D. 1, H.D. 2, C.D. 1.

Representatives Stanley, Garcia, Blair, Ikeda, Kiyabu and Takamine,
Managers on the part of the House.

Senators Toyofuku, Taira and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 15 on H. B. No. 678

The purposes of this bill are to amend the existing contractors recovery fund law as follows:

1. Decrease the period of time allowed for license restoration from one year to sixty days;

2. Disallow claims against the fund if the person's injury was caused by a contractor whose license was inactive at the time of the alleged injury;

3. Limit the class of persons entitled to recovery from the fund to owners or lessees of private residences, including condominiums or cooperative units, who have contracted with a duly licensed contractor for the construction of improvements or alterations to their own private residences; and

4. Increase the recovery fee assessment of contractors from $50 to $150 on a biennial basis.

Your Committee wishes to reiterate that the original intent of the contractors recovery

fund was to protect owners or lessees of private residences and them only. The only instances where the legislature intended a person other than an owner or lessee to recover from the fund was where he might be directly affected such as in the case where a subcontractor obtains a mechanics lien after the owner or lessee has paid the contractor for such services.

Your Committee has been informed that payment has been made from the fund to persons other than owners or lessees. Your Committee directs the contractors licensing board's attention to the original intent of the legislature when paying claims out of the contractors recovery fund.

Your Committee recommends that the bill be amended by deleting Section 1 of the bill for the reason that similar provisions are enumerated in H.B. No. 680, H.D. 1.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 678, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 678, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Cobb, Blair, Naito and Ikeda,
Managers on the part of the House.

Senators Nishimura, Chong, Taira and Leopold,
Managers on the part of the Senate.

Conf. Com. Rep. No. 16 on H.B. No. 154

The purpose of this bill is to designate geographic areas within the State for the development of regional design plans and to appropriate funds towards this end.

Your Committee upon further consideration has made the following amendments to H.B. No. 154, H.D. 2, S.D. 2 in order to retain greater flexibility in its provisions:

1. Page 4, line 23 is changed to read, "Appropriate state and federal funds, as available, may be used to match county funds to prepare the urban and regional design plans."

2. Page 5, line 3 is changed to read, "SECTION 3. There is appropriated out of the general revenues of the State of Hawaii, the sum of $125,000 for fiscal year 1977-78 for the purposes of this Act.

   The sum appropriated shall be expended by the Department of Planning and Economic Development."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 154, H.D. 2, S.D. 2, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 154, H.D. 2, S.D. 2, C.D. 1.

Representatives Kiyabu, Dods, Machida, Mina, Stanley and Medeiros,
Managers on the part of the House.

Senators R. Wong, F. Wong, King and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 17 on H.B. No. 193

The purpose of this bill is to waive the 30-day waiting period for the effectuation of death benefit payments under the mode of retirement selected by the member in the event that death is due to a terminal illness.

Under the present law, a member who is eligible for retirement must file an application with the retirement system not less than 30 days, nor more than 90 days from the date specified as the date of retirement. Should he die during this period between the date of filing his application for retirement and the effective date of retirement, his death is considered to have occurred while in service, and the ordinary death benefit rather than the benefit computed under the mode of retirement elected by the member is payable. Under certain circumstances, the difference in benefits could be substantial.

Your Committee finds that while deaths do not often occur during this 30-day waiting period, the ones that do occur are usually the result of a terminal illness such as cancer. In several cases, the employee was not aware of the seriousness of his illness and therefore unable to make a timely application for retirement.

House Bill 193, as amended, would waive the 30-day waiting period in such cases where a member dies of a terminal illness, provided the member was not notified of the terminal nature of his illness more than 30 days prior to death. The effect of this provision would be to allow his beneficiaries to receive death benefits under the mode of retirement selected by the member, computed as if the member had died after the effective date of retirement.

Your Committee has amended the bill to establish two conditions which shall be met before benefits may be payable in this manner:

1) It is proved that the deceased member was not notified by his licensed attending physician of the terminal nature of his illness more than thirty days prior to his death; and

2) The licensed attending physician was aware of the terminal nature of the disease more than thirty days before the death of the member but deemed it advisable for the mental health or physical well-being of his patient not to notify him of the terminal nature of the illness.

Your Committee has amended the bill further to prescribe procedures for verifying that the above conditions have been met. The licensed attending physician shall file an affidavit containing the following information: 1) the date when the nature of the terminal illness was discovered; 2) the terminal illness involved; 3) the date when the member was notified of the nature of the terminal illness; 4) the date of death of the deceased member; and such other information required by the Retirement System Board. Additionally, a licensed physician shall be called upon to verify the cause of death as being due to the terminal disease identified by the licensed attending physician in his affidavit.

These amendments are necessary to prevent potential abuse of the provisions for waiving the 30-day waiting period established in this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 193, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 193, S.D. 1, C.D. 1.

Representatives Stanley, Abercrombie, Kunimura, Mizuguchi, Say and Ikeda,
Managers on the part of the House.

Senators R. Wong, Toyofuku and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 18 on H.B. No. 1062

The purpose of this bill is to empower the department of education to issue licenses, revocable permits, concessions, or rights of entry to groups or individuals within the community so that school facilities could be used by that community. The effect of this bill is to make school facilities more accessible to community groups, thereby making the school the focal point of the community.

Under this bill, procedures for obtaining the use of school facilities are streamlined by removing the need to refer all permits in excess of fourteen days to the board of land and natural resources. However, your Committee feels that there is a need to allow input from the board to assure the proper use of school facilities. Your Committee feels that this is especially essential for cases involving long periods of use.

Therefore, your Committee upon further consideration, has amended H.B. No. 1062, H.D. 1, S.D. 1 to state that all dispositions of school facilities by the department of education need not be approved by the board of land and natural resources; provided that such dispositions are not for periods in excess of a year. If applications for use of a school facility are in excess of a year, approval must be obtained from the board.

Your Committee on Conference is in accord with the intent and purpose of H.B. No.

1062, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1062, H.D. 1, S.D. 1, C.D. 1.

Representatives Mizuguchi, Campbell, Kawakami, Kiyabu, Ushijima and Evans,
Managers on the part of the House.

Senators Hara, Kuroda, Yim and Yee,
Managers on the part of the Senate.

Conf. Com. Rep. No. 19 on H.B. No. 1173

The purpose of this bill is to (1) consolidate funds by function and source; (2) standardize terms; (3) add two new funds as a depository for interest charges and borrowed money; (4) define parameters for use; and (5) increase the guarantee amount from $8 million to $13 million.

Substantive provisions of this bill, including amendments made by your Committee on Conference, are as follows:

Section 213. The existing ceiling of $5 million on funds from state cane and water leases transferred into the additional receipts accounts was reached in May, 1976. The bill as sent to conference would have raised the ceiling to $10 million. Your Committee has amended this bill to raise the ceiling on additional receipts to $7.5 million.

The bill as sent to conference increased the share of state cane and water revenues transferred to the department from thirty per cent to fifty per cent. In order to insure the maintenance of programs established by legislative mandate and to preserve the intent for which the additional receipts portion of cane and water receipts was established, the existing allocation of additional receipts has been retained and a Hawaiian home education fund has been established.

In order to maintain the integrity of the legislative appropriation process, the bill as sent to conference limited the use of funds in all accounts in which the legislature has indicated a specific purpose to that specific purpose. Your Committee on Conference has deleted this amendment as being unnecessary, since such control is provided by existing general law.

In order to insure that development under the operating fund and development funds remains within the purposes of this Act, projects developed under those funds have been restricted to those which principally serve occupants of Hawaiian home lands and those which are necessary to serve lessees.

The bill as sent to conference expanded the terms under which moneys set aside for educational projects may be used to include projects approved by the department of education and the department of Hawaiian home lands. In addition, the bill expanded the benefits of such educational projects to all children of native Hawaiians, and not only to children of lessees. Your Committee on Conference has deleted these amendments to retain the existing statutory provisions.

Section 214. The department's guaranteeing powers have been expanded to include the power to assure any portion of a loan made to lessees or a cooperative association.

The department's power to permit or approve loans made to lessees has been limited to those loans made or assured by the department and the department's rights necessary to protect the monetary and other interests of the department have been limited to those enumerated at the time of assurance.

Funds available as cash guarantees have been limited to available loan fund moneys or funds specifically appropriated for such purposes.

The department's exercising of the functions and rights of a lender of money or mortgagee of residential property for loans made to lessees by lenders other than the department have been limited to those loans assured by the department.

Section 216. The department's lien rights on the assets of a collective association, a member of which has made a loan from the department, have been limited to that member's share in the collective association.

The department's enforcement of its lien rights has been made subject to the Act and the procedures established by rule.

Section 225. This section has been amended to require that interest and earnings arising out of investments from specific funds be deposited to the credit of that specific fund.

Section 208. The statutory provision that a lessee of agricultural lands plant and maintain trees has been deleted.

The statutory provisions of section 208(8) have been deleted since the intent and substance of this have been included in the amendment to section 214 contained herein.

In addition to the abovementioned substantive changes, extensive non-substantive changes in numeration, language, and structure have been made for the purposes of clarification and simplification.

Language transferring moneys in existing funds to the appropriate new funds has been placed in transitional sections, sections 6, 7, 8, 9, and 10, of this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1173, H.D. 1, S.D. 1, as amended herein, and recommends that it pass final reading in the form attached hereto as H.B. No. 1173, H.D. 1, S.D. 1, C.D. 1.

Representatives Kawakami, Caldito, Garcia, Morioka, Uechi and Poepoe,
Managers on the part of the House.

Senators R. Wong, Yim, Young and Anderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 20 on S.B. No. 140

The purpose of this bill is to establish a method for the adjustment of compensation, hours, terms and conditions of employment, and other benefits of public officers and employees who are excluded from collective bargaining, excepting those officers and employees whose compensation presently is established by the Constitution, statutes, or county charters and ordinances, other than Chapter 77, [Civil Service] Compensation Law, Chapter 297, Personnel of Public and Private Schools, and Chapter 304, University of Hawaii.

Presently, there are no established procedures for making such adjustments for those employees who are excluded from collective bargaining. This bill provides that discretionary adjustments shall be made by the chief executives of the State or counties, and the board of regents or board of education with the approval of the governor; provided that any adjustments for excluded employees in positions which are equivalent or identical to those of public employees within collective bargaining units shall not be less than those granted to such public employees under collective bargaining agreements. This bill further establishes the parameters for making adjustments as heretofore described, and vests the final approval of and appropriations for such adjustments in the proper legislative body.

Your Committee upon due consideration has made the following amendments to S.B. No. 140, S.D. 1, H.D. 1:

(1) Adjusted compensation for all University of Hawaii personnel shall be excluded from the 95% limitation with respect to the compensation of the first deputy or first assistant. Such a limitation is inconsistent with prevailing compensation conditions at the University of Hawaii. For the purposes of this Act, adjusted compensation for University of Hawaii personnel shall be limited to 95% of the compensation of the President of the University; provided that those University personnel currently exceeding this 95% limitation on compensation shall not suffer a reduction in current compensation as a consequence of this Act.

(2) Section 78-18, [General provisions on public service] Limit on salary of employees and certain officers., is amended to conform to the provisions of this Act.

Your Committee on Conference is in accord with the intent and purpose of S.B. No.

140, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 140, S.D. 1, H.D. 1, C.D. 1.

Representatives Stanley, Ikeda, Machida, Mizuguchi, Suwa and Takamine,
Managers on the part of the House.

Senators Toyofuku, Taira and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 21 on S.B. No. 74

The purpose of this bill is to exempt from taxation as ordinary income proceeds from sales of developed single-family residential land, where such sales are made by organizations exempt under section 501(c)(3) or treated as an estate or trust under subchapter J of the United States Internal Revenue Code, and where sales are made to lessees of such residential lands.

Sale of residential leasehold land has not been a common occurrence in Hawaii. However, in response to the determined desire of many lessees to become fee simple homeowners, the legislature of the State of Hawaii approved Act 307 of 1967, the Land Reform Act. That Act, codified as chapter 516, Hawaii Revised Statutes, and as subsequently amended will make it possible for many lessees to acquire their lots pursuant to the power of condemnation invested for this purpose in the Hawaii Housing Authority.

The fee owners of residential leasehold lots have asserted that major conversions under chapter 516 will have a substantial negative tax impact upon proceeds they receive from such sales. It has been argued that with passage of the Land Reform Act, presence of large inventories of leased lots now available for purchase by lessees will place lessors in the position of being dealers in real estate. That judgment, if made by federal and state tax authorities, would necessitate that the lessors pay taxes on sales proceeds as ordinary income. Because the land to be sold was acquired for miniscule prices, the tax impact would be prodigious.

The Committee feels that proper construction of the facts requires that leasehold lots sales should be treated as involuntary conversion of property, and not as sales of property in the ordinary course of business, since such sales generally take place only pursuant to the threat or exercise of eminent domain under chapter 516, Hawaii Revised Statutes. Due to the important public purposes served by chapter 516, the Committee determines that taxation should not be a barrier to increasing fee simple homeownership in the State.

This bill would enable landowners meeting certain criteria to obtain capital gains tax treatment for lot sales proceeds. Further, nonrecognition of gain would be available upon reinvestment of proceeds in comparable property within the time period specified in the Internal Revenue Code. Landowners constituted as charitable or nonprofit trusts or estates would be exempt from taxation.

This Committee is aware that amendment of state tax laws will be of marginal benefit in facilitating leasehold conversion, in comparison with similar construction or amendment of the Internal Revenue Code for federal taxation. The legislature of the State of Hawaii has consistently supported such action, first in passage of Senate Concurrent Resolution No. 47 in 1975. It is this Committee's hope that federal action in support of Hawaii's Land Reform Act will be soon in coming, and that passage of this bill will demonstrate the legislature's continued support of land reform.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 74, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 74, H.D. 1, C.D. 1.

Representatives Shito, Aki, Segawa, Ueoka, Ushijima and Narvaes,
Managers on the part of the House.

Senators R. Wong, Young and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 22 on S.B. No. 237

The purpose of this bill is to provide for the resolution of any impasse dispute over the terms of an initial or renewed agreement involving bargaining unit 11, Firemen. Any such dispute which continues for a period of 15 days after the date of impasse shall be submitted to the arbitration procedures as established by this bill unless the parties to the dispute mutually agree upon an alternative arbitration procedure within 18 working days from the date of impasse.

This bill provides for whole package, final offer arbitration as the method of impasse resolution. This approach requires the arbitrator to select the most reasonable of the final offers submitted by the parties, and to issue a decision incorporating that offer without modification. The decision of the arbitrator shall be final and binding upon the parties; provided that at any time and by mutual agreement, the parties may modify or amend the decision. Agreements reached pursuant to the decision of an arbitrator as provided in this bill shall not be subject to ratification by the employees concerned. Your Committee notes that notwithstanding the effectuation of the arbitration process as set forth in this Act, nothing shall preclude the parties from reaching a voluntary settlement with or without the assistance of a mediator at any time prior to the conclusion of the hearing conducted by the arbitrator. Furthermore, employees covered by this whole package, final offer method of impasse resolution voluntarily relinquish their lawful right to strike by virtue of such coverage.

Your Committee upon due consideration has made the following amendments to S.B. No. 237, S.D. 1, H.D. 1:

(1) The expiration date of July 1, 1988 has been deleted.

(2) A Ramseyer clause has been added for the information of the revisor of statutes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 237, S.D. 1, H.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as S.B. No. 237, S.D. 1, H.D. 1, C.D. 1.

Representatives Stanley, Kiyabu, Machida, Medeiros, Mizuguchi and Peters,
Managers on the part of the House.

Senators Toyofuku, Taira and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 23 on H.B. No. 817

The purpose of this bill is to change the designation of "firemen" and "policemen" to "firefighters" and "police officers" in Chapter 89, the collective bargaining law; to permit employee organizations which have been certified by the Hawaii Public Employment Relations Board as the exclusive bargaining representatives for the appropriate bargaining units to merge or to enter into an agreement for common administration or operation of their affairs without the necessity of having the organizational entity or structure resulting from such merger or agreement undergo the election and certification process; to convert to civil service status certain non-policy making staff positions in the Office of Collective Bargaining and to accord civil service status to incumbent employees in those positions without the necessity of examination.

The designation change for firemen and policemen conforms with the usage of non-sex terms in statutory language.

Your Committee finds that the merger provisions of this bill would obviate the costly activities related to special representation elections and certification procedures. Furthermore, this bill would protect the intent and purpose of Chapter 89, such as those provisions of Section 89-7 respecting open periods for purposes of filing election petitions, and would protect the contracts which are operative as a result of the law. Your Committee further finds that unions merge only after the merging parties have been authorized by the membership to extensively explore and negotiate the conditions and effects of such merger, and the resulting merged organization would more effectively function as an exclusive bargaining agent to the benefit of the participating unions and their respective members.

Your Committee further finds that the uniqueness of public sector collective bargaining

negotiations demands the continuous attention of a thoroughly trained staff which is knowledgeable of the various intricacies of the current negotiating processes and requirements. The present staff of the Office of Collective Bargaining has acquired the valuable training and knowledge with which to meet these demands, and your Committee believes that this working relationship of the present staff should be preserved and continued as much as possible in the interest of facilitating and enhancing ongoing operations.

Your Committee upon due consideration has amended this bill to exempt the researcher, in addition to the chief negotiator and deputy negotiator, from the civil service law.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 817, H.D. 1, S.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as H.B. No. 817, H.D. 1, S.D. 1, C.D. 1.

Representatives Stanley, Dods, Machida, Medeiros, Mina and Mizuguchi,
Managers on the part of the House.

Senators Toyofuku, Taira and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 24 on H.B. No. 155

The purpose of this bill is to amend Chapter 225, Hawaii Revised Statutes, to define a "functional plan" and to require functional plans to be adopted by the legislature by concurrent resolution.

Your Committee finds that the intent of the bill is to apply primarily to major functional plans to include, but not limited to, such plans as the Tourism Master Plan, Agriculture Master Plan, State Comprehensive Health Plan, Statewide Transportation Plan, State Housing Plan, Historic Preservation Plan and the State Comprehensive Outdoor Recreation Plan.

Your Committee also finds that several phrases of the bill require additional clarification in order that the intent of the bill is carried out. The amendment beginning on line 5 of page 3 regarding the January 1, 1977 date was considered so that plans, such as the Statewide Comprehensive Outdoor Recreational Plan, shall not be affected by this Act, but that the Housing Plan, which was submitted to the legislature in February, 1977 shall come under the purview of this Act.

It is the intention of the Committee that, in the event that receipt of federal funds could be placed in jeopardy as a result of the applicant agency's failure to comply with the provisions of this Act, the agency may proceed with the understanding that legislative approval of the particular functional plan will be sought at the next legislative session. It is also anticipated that federal funds received by the State are more likely to apply to on-going operational or service program plans rather than functional plans. These operational or service program plans include, but are not limited to such plans as the Social Service Delivery Plan, State Correctional Plan, Public Welfare Program, Areawide Waste Treatment Management Program, and Overall Economic Development Program.

Your Committee upon further consideration has made the following amendments in the language of the bill beginning with line 23 on page 2:

"If the Legislature fails to adopt the functional plan it shall revert to the state agency of origin for revision and be resubmitted 20 days prior to the reconvening of the next session of the Legislature. Functional plans prepared and approved by the state administration and received by the Legislature on or after January 1, 1977, shall not be used as a guide or to implement state policy unless said plans shall have been approved by the Legislature."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 155, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 155, H.D. 1, S.D. 2, C.D. 1.

Representatives Kiyabu, Machida, Mina, Mizuguchi, Say, Stanley and Medeiros,
Managers on the part of the House.

Senators R. Wong, King and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 25 on H.B. No. 433

The purpose of this bill is to enable the chief election officer to provide for a voter assistance official at the polls and to increase the compensation for precinct officials.

Under present law each precinct is allotted not less than three precinct officials; and where more than one voting unit has been established in the precinct, there shall be three precinct officials for each unit. The current compensation for precinct officials is $35.

Your Committee agrees that the compensation should be raised $10 per official. The additional compensation will facilitate recruitment of election officials, in view of the fact that they are required to attend a two-hour training session and to work at the polls from 6:00 a.m. to 6:00 p.m. on election day. Recruitment of precinct officials on neighbor islands has been increasingly difficult with each election, and in the past primary and general elections, the neighbor island county clerks have had to advertise in their local newspapers for precinct workers to fill the required number of positions. The higher rate of compensation will also be in keeping with added responsibilities imposed by new legal requirements. The voter assistance official plays a critical role in assisting voters to cast their ballots properly.

Your Committee upon further consideration has amended the effective date to be July 1, 1977.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 433, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 433, H.D. 1, S.D. 2, C.D. 1.

Representatives Peters, Garcia, Kunimura, Naito, Ueoka and Medeiros,
Managers on the part of the House.

Senators R. Wong, Nishimura, Anderson and Yamasaki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 26 on S.B. No. 563

The purpose of this bill is to bring section 291-35, Hawaii Revised Statutes, into closer conformity with federal standards governing gross vehicle weight, axle and wheel loads, and to establish an enforceable and realistic set of weight standards for roads and streets other than interstate highways.

It is your Committee's concern that a set of weight standards be adopted which will not adversely affect Hawaii's already depressed agricultural and construction industries. Enforcement of the existing laws with regards to vehicle weight would limit a truck to about 90 per cent of its capacity, thereby promoting vehicle inefficiency and being contrary to established energy conservation practices. Enforcement of these standards has, in the past, been almost nonexistent due to the vagueness of the enforcement provisions and the lack of the necessary equipment to adequately carry out and monitor these provisions. Testimony previously submitted on this subject reveals that the federal government has mandated that the continued lack of enforcement may result in the loss of federal funds for transportation programs. Thus, an increase in the maximum allowable weight load is the creation of a realistic weight limit that can be enforced without endangering key economic industries so that federal highway funds will be assured for the future.

Your Committee has amended the penalty section of this bill to specify that violation of any of the required acts, or committing any of the prohibited acts of this chapter shall constitute a violation rather than a petty misdemeanor as originally provided. It is believed that the fine provided will act as an adequate deterrent. It has been additionally provided that evidence of prior offenses shall be admissible as evidence for the purpose of the imposition of a fine or penalty.

Your Committee upon further consideration has amended the bill to allow for a 5 per cent deviation from the applicable maximum allowable weight provided in section 291-35, Hawaii Revised Statutes. The purpose of this amendment is to allow for inaccuracies in the weighing of the vehicle caused by equipment error and to accommodate the varying conditions affecting the weight of a particular load.

It is the finding of your Committee that the provision for a per trip permit as originally provided would prove economically infeasible to trucks hauling several loads each

day. Accordingly, your Committee has amended the bill by providing that the director of transportation may issue an annual as well as a per trip permit, authorizing the applicant to operate vehicles which exceed the limits set forth in section 291-35, Hawaii Revised Statutes, when carrying products from where they are harvested or stored to the place where they are processed or used.

The existing language of the bill provides that the director of transportation, in the case of state highways, or the county engineer, in the case of county roads and streets, may post signs limiting the weight of a vehicle over a particular road or bridge, below that provided under section 291-55, Hawaii Revised Statutes. Your Committee has amended the bill in this respect by providing for an appeal procedure through the provisions of chapter 91, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 563, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 563, S.D. 1, H.D. 2, C.D. 1.

Representatives D. Yamada, Cayetano, Takamura, Uechi, K. Yamada and Ikeda,
Managers on the part of the House.

Senators O'Connor, Hara and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 27 on S.B. No. 485

The purpose of this bill is to provide for the regulation of reconstructed, rebuilt, or modified vehicles by state law rather than county ordinance.

Under existing laws, each county regulates reconstructed vehicles through county ordinances and regulations. This practice provides for no standard or uniform form and creates a hardship for an owner seeking to transfer a vehicle between counties as it subjects him to the hazards of violations of the various county ordinances. A transfer of responsibilities from the counties to the State would alleviate these problems as well as permit a timely overall reassessment and reevaluation of existing rules and regulations.

This bill additionally provides that a vehicle which has been reconstructed shall cause this fact to be shown upon the registration certificate and registration records for that vehicle. Existing laws provide no means of determining which vehicles have been reconstructed or how many of these reconstructed vehicles are registered.

Your Committee, to avoid confusion as to the intended scope and meaning of the term "reconstructed vehicle," has amended the definition such that reconstructed vehicle excludes ordinary body repairs which do not change the exterior structure of the vehicle.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 485, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 485, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, Cayetano, Takamura, Uwaine and Ikeda,
Managers on the part of the House.

Senators O'Connor, Hulten and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 28 on S.B. No. 251

The purpose of this bill is to exempt the payment of taxes on stored vehicles and to provide a penalty for the presentation of a false certificate of storage.

Your Committee finds the present wording of the bill is confusing where it pertains to the dates provided for the presentation of the certificate of storage. Accordingly, the phrase, "within the period" has been added on line 12, page 2 following the word "treasurer," to more specifically state the intention of your Committee that this certificate be presented between December 31 of the year in which the vehicle is registered for license plates and tags and March 31 of the year immediately following.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 251, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. 251, S.D. 1, H.D. 1, C.D. 1.

Representatives D. Yamada, Cayetano, Takamura, Uwaine and Ikeda,
Managers on the part of the House.

Senators O'Connor, R. Wong and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 29 on H.B. No. 1153

The purpose of this bill is to require insurers to pay interest on the proceeds of life insurance policies, annuity contracts, or endowment contracts when there has been a delay in payment.

The bill delineates three situations when an insurer will be liable for interest payments: (1) In cases when an action is commenced to recover the proceeds under a life insurance policy or annuity contract and maturity proceeds under an endowment or annuity contract and a judgment is rendered against the insurer, interest must be paid from the date of death or maturity until the date a verdict is rendered, or a report or decision is made; (2) When there is a settlement during the course of an action to recover, the proceeds under a life insurance policy or annuity contract and maturity proceeds under an endowment or annuity contract, interest must be paid from the date of death or maturity until the date of payment; and (3) If no action has commenced, the proceeds under a life insurance policy or annuity contract and the maturity proceeds under an endowment or annuity contract, interest shall be paid from the date of death or maturity until the date of payment.

Your Committee recommends that this bill be amended to provide as follows:

1. Provide that the interest upon the principal sum to be paid to the beneficiary or policyholder shall be computed daily at the rate of interest currently paid by the insurer on proceeds left under the interest settlement option, but not less than six per cent per year.

2. Insurer shall have a "grace period" of 30 days from the date of death within which to make payment; otherwise they shall be liable for the payment of interest upon the proceeds in connection th a death claim on a life insurance policy or annuity contract.

3. Technical reasons for consistency in language.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1153, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1153, H.D. 1,S.D. 1, C.D. 1.

Representatives D. Yamada, Cobb, Baker, Nakamura and Medeiros,
Managers on the part of the House.

Senators Nishimura, Chong, Taira and Leopold,
Managers on the part of the Senate.

Conf. Com. Rep. No. 30 on H.B. No. 1284

The purpose of this bill is to amend certain provisions of the Horizontal Property Act.

Section 1 of the bill extends the statute of limitations for civil or criminal actions brought by the State from one to two years for violations of horizontal property regimes laws.

According to testimony by the Real Estate Commission, the Commission has encountered a statute of limitation problem with a number of complaints, by the time it was able to bring formal action against certain developers.

Because most complaints deal with multi-million dollar condominium projects, extensive review of documentation is required before an investigation can be completed and charges brought. Further, the Commission has found that most developers usually prefer to

negotiate rather than risk criminal or civil penalties. These negotiations can be complex and time consuming, and an extension of the statutes of limitation will guard against unforeseen complications which otherwise could result in the dismissal of a legitimate case.

Section 2 of the bill permits a developer to assume all the actual common expenses by stating in the abstract as required by Act 239, Section 1, Session Laws of Hawaii 1976, that the apartment owner shall not be obligated to pay his respective share of the common expenses until such time the developer files an amended abstract with the commission which shall provide, that after a date certain, the respective apartment owner shall thereafter be obligated to pay for his respective share of common expenses that is allocated to his apartment. The amended abstract shall be filed at least 30 days in advance with the commission with a copy of the abstract being delivered either by mail or personal delivery after the filing to each of the apartment owners whose maintenance expenses were assumed by the developer.

Section 2 of the bill provides that final public report may be issued prior to completion of the construction of the project unless there is filed with the real estate commission a parking plan to include parking spaces and guest parking, if any, exclusive of assignment to individual apartments, if parking spaces are to be limited common elements.

Section 3 of the bill provides that if the developer or its affiliate is the managing agent, such fact shall be disclosed to the association of apartment owners no later than the first meeting of the association. A managing agent employed or retained for a condominium project shall provide evidence of a fidelity bond in the minimum amount of $25,000. If a project chooses not to have a managing agent, a fidelity bond shall be secured for all individuals handling the funds in the minimum amount of $10,000.

Section 4 of the bill provides for exterior glass to be insured at the option of the association of apartment owners.

Section 5 of the bill amends Hawaii Revised Statutes Section 514-39. Presently, this section states that if the final report for a project is not issued within one year from the date of issuance of the preliminary report, each purchaser is entitled to a refund of all moneys paid by him without further obligation. A copy of the final public report shall be delivered to the purchaser either personally or by registered or certified mail with return receipt requested. No cutoff date is established for the purchaser to exercise his option to a refund and as a result, a purchaser may receive a final report issued more than one year after the date of issuance of the preliminary report and later cancel the transaction. This can work a hardship on the developer as the exercise of the refund option may come many months after the final report was issued. The bill amends this section by establishing a cutoff date of thirty days for the purchaser to exercise his option subsequent to issuance of a final report. If the purchaser fails to act within the thirty-day period, his right to refund and cancellation of obligation shall be deemed waived. Further, the waiver of rights is effective only if the purchaser is informed in writing that his rights will be waived if he fails to act within the specified period. These amendments provide further protection to the purchaser.

Section 6 of the bill amends Hawaii Revised Statutes Section 514-41. This section presently states that a developer may not enter into a binding contract for the sale of any unit in a condominium project prior to completion of construction until, among other things, the prospective purchaser receives and executes a receipt for the final report and all supplementary reports, if any, for the project. This has led to problems in cases where a purchaser receives the required reports but refuses or neglects to execute the receipt for the reports. Technically, in such cases, the contract which has been executed by the prospective purchaser is not binding until the receipt is executed and the developer cannot be sure whether the prospective purchaser will go through with the purchase. The proposed amendment resolves the problem by providing that upon delivery of the required reports to the prospective purchaser, the purchaser will have thirty days within which to execute the receipt, after which period he will be deemed to have executed the same. In order to protect the prospective purchaser, the amendment requires that the reports be delivered either personally or by registered or certified mail with return receipt requested and that the purchaser be informed in writing of the time within which he must act.

Section 7 of the bill amends Hawaii Revised Statutes Section 514-9. This amendment is to remove the confusion resulting from the recent court decisions in E.E. Black, Ltd., Lienor v. Holiday Plantation, et al. , owners, M.L. Nos. 3091, 3109, and 3131 (1975 Hawaii Circuit Court of the First Circuit) in which the court contrary to legislative intent read into Section 514-9, Hawaii Revised Statutes, a prohibition against attachment of a lien to a horizontal property regime after the filing of the declaration.

Your Committee recommends that this bill be amended as follows:

(1) Amend Section 2 of the bill in line 17 on page 2 to allow a developer to assume all the actual common expenses only in a residential project containing no mixed commercial and residential use.

(2) Amend Section 3 of the bill in line 4 on page 5 by inserting the words "designated residence" before the word "parking".

(3) Amend Section 5 of the bill in lines 12 and 13 on page 6 by deleting the words "vents, ducts and plumbing systems".

(4) Amend Section 8 of the bill in line 5 on page 10 by adding the words "other than (i) the mere reservation of legal title under an agreement of sale to a bona fide purchaser; and (ii) the apartment in respect of which a binding contract of sale has been entered into with a bona fide purchaser but which has not, at the time of filing of the application of a mechanic's lien, closed escrow;". The purpose of this amendment is to exempt from the effects of the mechanic's lien those apartments for which either an agreement of sale or a binding contract of sale to a bona fide purchaser has been entered into prior to the filing of the application of a mechanic's lien. The phrase "bona fide purchaser" is inserted to prevent the developer from immunizing apartment units from the mechanic's lien by transferring the units by an agreement of sale or contract of sale to a "straw" buyer.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1284, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1284, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Blair, Ueoka, Uwaine and Ikeda,
Managers on the part of the House.

Senators Nishimura, Chong and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 31 on S.B. No. 533

The purpose of this bill is to provide for the definition and regulation of a vehicle to be known as a "motor-driven bicycle". It establishes a maximum speed limit of 25 miles per hour and a maximum machine operating speed of 35 miles per hour. Additionally this bill requires that operators be licensed in one of the categories established in section 286-102, Hawaii Revised Statutes. The definitions of "bicycle", "motor scooter", and "motor vehicle" have been redefined so as to conform to this bill and existing statutory usage.

With the increased popularity of these vehicles as an inexpensive and efficient form of transportation, it has become evident that clarification of their status as a vehicle is necessary. It is your Committee's concern in this regard, that a definition be established which, while providing adequate regulation and ensuring safe operation, will not overly restrict the market or discourage the use of these vehicles. Accordingly, the definition, as amended, will allow the vehicle to be registered and insured as a bicycle yet maintain an identity independent from a bicycle. This bill, as amended, restricts the vehicle to an engine with a maximum of 1.5 brake horsepower or a combustion engine with a maximum piston or rotor displacement of 3.05 cubic inches (50 cubic centimeters), which is able to propel the vehicle unassisted at a speed not to exceed 35 miles per hour.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 533, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 533, S.D. 1, H.D. 2, C.D. 1.

Representatives Cayetano, Abercrombie, Dods, Garcia, Uwaine and Evans,
Managers on the part of the House.

Senators O'Connor, Takitani and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 32 on S.B. No. 246

The purpose of this bill is to provide additional revenues to the state highway fund by instituting a state vehicle tax to be levied against vehicle owners, in addition to the county vehicular tax currently being imposed. Certain exemptions are made. In addition, this bill makes permanent the present 3 and 1/2 cent temporary increase in the state fuel tax.

The operation and maintenance of the State's land transportation facilities, including debt service on bonds, are financed primarily by the state fuel tax.

Additional revenues to the state highway fund are required in order to pay for the increasing costs of operation and maintenance of the present system and future construction. Failure to provide such revenues would adversely affect the present highway system and would inevitably lead to indebtedness in excess of the state debt ceiling.

The fuel tax, which is the primary source of revenues for state highway fund, is an inadequate and unstable source of revenues. It not only unfairly penalizes those citizens with low incomes who must drive long distances, but it fails to address the problems of fuel conservation. An increase in the federal fuel tax and the possibility of another oil embargo could seriously affect the revenue producing capability of the state fuel tax by promoting or compelling a reduction in fuel consumption which, in turn, would result in reduced revenues for the state highway fund.

Rather than viewing the impending highway fund deficit as simply a revenue problem, the legislature finds that a more comprehensive and long-term solution must include the consideration of fuel conservation both as a goal and as it affects fuel tax revenues, tax equity, and the relationship between the numbers and sizes of vehicles, and our capacity to accommodate these vehicles in terms of our limited land area, highway capacity, and funding ability.

Your Committee agrees that a tax on a vehicle by weight would provide both a disincentive which would promote energy conservation and new revenues for the state highway fund.

Your Committee has amended the bill by including motor vehicles with a net vehicle weight of 6,000 pounds over as exempted from the motor vehicle weight tax.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 246, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 246, S.D. 1, H.D. 1, C.D. 1.

Representatives Cayetano, Dods, Machida, Takamura and Medeiros,
Managers on the part of the House.

Senators R. Wong, O'Connor and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 33 on H.B. No. 28

The purpose of this bill is to provide for:

1. The time of holding a constitutional convention;

2. The districts and the number of convention delegates to be elected from such districts;

3. The place at which the convention will meet;

4. The powers of the convention;

5. The immunities of the convention delegates;

6. The salaries and allowances for the delegates;

7. The staffing of the convention;

8. The moneys necessary to hold the elections for convention delegates, for any preparation for the convention, and for staffing and other expenses of the convention; and

9. Any other provisions necessary to have a constitutional convention.

Your Committee upon further consideration has made the following amendments to H.B. No. 28, H.D. 2, S.D. 1:

(1) Specified, for purposes of clarification and without affecting the original intent of the bill, that the election day for the election of delegates to the convention shall not be a holiday, notwithstanding the provisions of section 8-1, Hawaii Revised Statutes, as amended, which provides that all election days, other than for the primary election, are to be designated as holidays.

(2) Further provided, for purposes of clarification and without affecting the original intent of the bill, that voters shall be entitled to take time off from work in order to vote, as provided in section 11-95, Hawaii Revised Statutes, as amended.

(3) Provided for the election of the 102 delegates from the current representative districts as follows:

(a) In single representative districts, there will be two delegates selected at large.

(b) In multi-member districts, the district will be subdivided by precincts, and there will be two delegates elected in each of the subdivided districts.

(4) Provided that the legislative offices in the State Capitol Building are not to be used for the purpose of the convention. However, the auditorium and conference rooms in the State Capitol Building may be used if the governor so designates.

(5) Provided for payment of salaries to the delegates of $1,000 a month, but not to exceed $4,000, payable at the rate of $500 semi-monthly, beginning May 21, 1978. In addition, Oahu delegates will receive an allowance of $10 per diem, while neighbor island delegates will receive $30 per diem.

(6) Provided, for purposes of clarification and consistency, that state and county employees who are elected to serve as delegates must take leave without pay from their employment beginning the day after the election and continuing until the convention adjourns.

(7) Provided for the appropriation of $1,500,000, or so much thereof as may be necessary, for the purposes of defraying the presession and postsession expense of the convention, including the salaries of the delegates and for any other expenses or purposes as may be necessary.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 28, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 28, H.D. 2, S.D. 1, C.D. 1.

Representatives Garcia, Blair, Ikeda, Kunimura, Lunasco, Medeiros, Morioka, Suwa, Uechi, Ueoka and Uwaine,
Managers on the part of the House.

Senators R. Wong, Hulten, Nishimura and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 34 on S.B. No. 1193

The purpose of this bill is to extend the lapsing date on state appropriations for Waikiki improvements. The appropriation would otherwise lapse as of June 30, 1977 under existing law.

Waikiki is a special district deserving limited extension of appropriations because of its importance to tourism which reflects on the economy of the State as a whole.

Your Committee upon further consideration has amended this bill to set the lapsing date on March 1, 1978 rather than December 31, 1977 because although funds could be encumbered this year and therefore the appropriation not lapse, we feel that due to unforeseen delays it is more prudent for us to review this appropriation in the next legislative session rather than risking the lapsing of these very important funds.

Your Committee on Conference is in accord with the intent and purpose of S.B. No.

1193, S.D. 1, H.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1193, S.D. 1, H.D. 1, C.D. 1.

Representatives Machida, Dods, Morioka, Stanley, Medeiros, and Mina,
Managers on the part of the House.

Senators R. Wong, F. Wong and Anderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 35 on H.B. No. 512

The purpose of this bill is to establish a permanent elections staff which shall be subject to the provisions of Chapters 76 and 77, Hawaii Revised Statutes, and to accord civil service status without the necessity of examination to certain incumbent election employees.

Presently, elections staff positions are filled by temporary appointments of the Lt. Governor who is the Chief Elections Officer of the State. The duration of these appointments are limited by the Lt. Governor's term of office, thus, there is no guarantee of staff continuity from one administration to the next.

Your Committee finds that elections are a permanent activity of government and one that has become increasingly technical and specialized. Not only must they be run impartially and efficiently, but the results must be accurate and quickly obtainable. Your Committee feels that the services of persons having the knowledge and expertise which is gained through years of experience are required to perform the elections staff functions. Therefore, this bill amends Section 11-5, Hawaii Revised Statutes, by adding a provision which permits the Chief Elections Officer to employ a permanent staff subject to Chapters 76 and 77, as well as temporary election employees, none of whom shall be subject to Chapters 76 and 77, as he may find necessary.

Additionally, your Committee finds that presently, there are eight persons employed by the State who have served in the conducting of elections through one or more administrations. During their tenure, they have gained the valuable knowledge and expertise essential to efficient and effective performance of the elections staff functions. Moreover, their involvement with the elections process since the creation of the statewide computerized voting system has given them very specialized experience and technical expertise. The work of these employees has been cited by election administrators across the country and has earned for Hawaii, an enviable reputation for its experiences in voter registration, bilingual registration and voting, and voting equipment. This bill allows these employees, presently occupying the following positions: (1) Director of Elections; (2) Voter Education Coordinator; (3) Voter Registration Coordinator; (4) Elections Logistics Coordinator; (5) Assistant Elections Logistics Coordinator; (6) Elections Accounts Clerk; (7) Elections Secretary I; and (8) Elections Secretary II, to be converted to civil service status within the meaning of Chapters 76 and 77, Hawaii Revised Statutes, without the necessity of examination, and to be accorded all the accompanying rights, benefits and privileges.

Your Committee has amended the bill to amend Section 76-16, Hawaii Revised Statutes, by deleting paragraph 13 which provides for the exemption of election inspectors, clerks, and other election employees from the civil service. The amendment is necessary to conform the existing statutes with the intent of the bill. Your Committee has further amended the bill by specifying in Section 3, that subsequent changes in position classification and pay of the eight employees converted to civil service status shall be made pursuant to Chapters 76 and 77. The bill previously provided that such changes shall be made pursuant to "applicable personnel laws".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 512, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 512, H.D. 1, S.D. 1, C.D. 1.

Representatives Stanley, Cayetano, Say, Takamura, Uwaine and Ikeda,
Managers on the part of the House.

Senators R. Wong, Toyofuku and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 36 on S.B. No. 1074

The purpose of this bill is to amend the existing Uniform Probate Code (Act 200, Session Laws of Hawaii 1976).

The major differences between the Senate and House Drafts are related to the jurisdictional limit of the small estates clerk, the registration of trusts, and the method of giving notice. Your Committee recommends that this bill be amended as follows:

1. Establishing the jurisdictional limit of the small estates clerk at $20,000;

2. Providing that a trust does not have to be registered during the settlor's life unless he directs that it be registered; and

3. Providing that notice given by first class mail is effective if the person entitled to notice receipts for a copy thereof.

Your Committee notes that Conference Committee Report 24-76 which accompanied S. B. No. 79, S.D. 1, H.D. 1, C.D. 1 (Act 200, Session Laws of Hawaii 1976) explained in detail all the differences, and the rationale therefor, between the Hawaii version of the Uniform Probate Code and the Uniform Probate Code. The purpose was to provide an easy method of discovering the legislative intent behind the amendments. Your Committee is aware that the Judiciary, the Bar Association of Hawaii and professional fiduciaries have made use of said Conference Committee Report 24-76 in their review of Act 200. In order that interested persons may make reference to the amendments to Act 200 made by S.B. No. 1074, S.D. 1, H.D. 1, C.D. 1., your Committee has summarized below all amendments to Act 200 and the reasons therefor:

1. Amend Section 1-108 to require registration of trusts only (1) if the settlor so directs; and (2) upon the death of the settlor.

Reason: As enacted, Section 1-108 requires registration unless the settlor directs otherwise. This provision has been interpreted as applying to all existing trusts, even unfunded life insurance trusts. The result has been that settlors have been contacted and informed that, if they wish to keep the existence of the trust secret, they must execute a one paragraph amendment directing the trustee not to register. The legislature's intent in requiring trust registration has never been to invade the settlor's privacy during his lifetime, but rather to provide a source of information for the protection of beneficiaries after the settlor's death. The amendment accomplishes this by not requiring the trustee to register during the settlor's life unless the settlor requests registration. However, the trustee is not prevented from registering if he perceives a need for registration.

2. Amend Section 1-401(a) to delete the requirement that mailed notice be by certified or registered mail, return receipt requested, deliverable to the addressee only, to substitute therefor first class mail, postage prepaid, and to establish alternative methods of notice in the absence of proof that the first class letter was received by the person entitled to notice (e.g. if the noticed person does not acknowledge receipt of the notice in writing).

Reason: Your Committee struggled at length with the notice problem. The amendment seeks to accomplish the notice required by due process (see, e.g., Freitas v. Gomes, 52 Haw. 145 (1970) with a minimum expenditure of money and time. Your Committee knows from the Freitas case that mere published notice is not constitutionally sufficient. The Freitas case does not, however, identify what would be a constitutionally acceptable method of giving notice. Your Committee recognizes that the notice provisions in C.D. 1 are more stringent than those in the Uniform Probate Code, but your Committee feels that it is required to opt for the more stringent provisions in view of the uncertainties arising under the Freitas case and in view of the fact that laymen acting as personal representatives in informal proceedings may be without the advice of counsel as to what type of notice is constitutionally required. Since these laymen will be looking solely to the statute for instruction on notice, your Committee feels that it would be wise to establish notice procedures which would seem clearly to withstand a constitutional due process test.

3. Amend Section 2-102 to provide that the surviving spouse inherits the entire intestate estate if the decedent left neither issue nor parents surviving him.

Reason: Act 200 gives the surviving spouse one-half of the intestate estate if the

decedent left any brothers or sisters surviving him. Your Committee is concerned for the welfare of surviving spouses who may have lost their principal source of support. This amendment provides greater protection for surviving spouses than does the present language of Act 200.

4. Amend Section 2-103 to provide that great grandparents and their issue take the intestate estate prior to escheat to the State.

Reason: Your Committee feels that providing for escheat to the State if the intestate decedent leaves neither grandparents nor issue of grandparents cuts off easily discoverable relatives.

5. Amend Section 2-205 to provide for a uniform method by which a widow elects her dower interest, if any, and her elective share. Your Committee has included a cross reference to Section 533-1, Hawaii Revised Statutes.

Reason: Act 200 provides that a widow is presumed to elect her dower interest and not to elect her elective share if she permits the probate to close without taking action. The amendment to Section 2-205, coupled with the repeal of Sections 533-14 and 533-15, Hawaii Revised Statutes, (see paragraph 47 below) is designed to correct this inconsistency by providing that the widow must file with the court an election to take her dower interest and her elective share if she desires to take against her husband's will or in lieu of her intestate share. The reference to Section 533-1 is intended to direct persons to that Section which specifies the limited circumstances in which dower will exist after July 1, 1977. As appears from an examination of Section 533-1, the widow's dower interest exists only if two conditions are met: (i) the property was owned by her husband before July 1, 1977, and (ii) the property is not a part of his probate estate. If the property is part of the probate estate, the widow's claim against it is by way of her elective share. Thus, the only instances after July 1, 1977 in which the widow will be asserting her dower interest will be in cases where pre-July 1, 1977 property owned by the husband was conveyed without securing a release of dower from the wife.

6. Amend Section 2-206 to make reference to the widow's dower interest, if any, and to clarify that the deceased spouse may provide by will that the surviving spouse may take an elective share and dower, if any, in addition to a bequest under the will.

Reason: The reference to dower is explained in paragraph 5 above. The other language incorporates the existing Hawaii law found in Section 533-14. Your Committee sees no reason for denying the deceased spouse the opportunity to permit the surviving spouse to take a testamentary bequest in addition to a statutory share.

7. Amend Section 2-207 to make reference to the widow's dower interest, if any.

Reason: See comments under paragraph 5 above.

8. Amend Section 2-403 to delete the $6,000 limitation on the family allowance.

Reason: Present Hawaii law does not provide a ceiling for the family allowance and your Committee has heard testimony to the effect that the $6,000 ceiling may work a hardship on some families.

9. Amend Section 2-404 to authorize the courts to award a family allowance in excess of $6,000. As amended, this Section permits the personal representative to authorize an allowance of up to $6,000, but an interested person may petition the court for the award of a greater or lesser amount.

Reason: See comments under paragraph 8 above.

10. Amend Section 2-508 by repealing the provision that provides that remarriage to a former spouse revives that portion of an existing will which was revoked on account of the prior divorce from the spouse.

Reason: Your Committee feels that the revival provision is unnecessarily complicated. Under said Section 2-508, divorce revokes that portion of an existing will naming the spouse as a beneficiary or personal representative. This is the present Hawaii law. If the testator wishes to remarry his former spouse and include her in his will again, which remarriage could occur after a long lapse of time and significant change in circumstances, your Committee feels that the better rule is to have the testator execute a codicil or a new will to specifically include her.

11. Amend Section 2-902 to clarify that a person possessing a will of a decedent has

the duty to come forward with it without demand having first been made.

Reason: As drafted in Act 200, Section 2-902 appears to permit the possessor of the will of a decedent to retain the will until requested by an interested person to produce it. Your Committee is concerned that interested persons may not know who possesses the decedent's will and, accordingly, will not be able to make the request which triggers the possessor's duty to produce the will. The amendment to Section 2-902 clarifies that the possessor has the duty to produce the will in the absence of any request.

12. Amend Section 3-108 by adding a new paragraph (d) which imposes a 12 month time limit for initiating a proceeding to contest a testacy status determination made in an informal proceeding.

Reason: The new paragraph is similar in effect to language originally included in S. B. No. 79 but deleted prior to its final passage last session. The purpose is to provide greater certainty to testacy determinations made in informal proceedings by making such determinations conclusive 12 months after the close of the informal proceedings. Your Committee has added a reference to Section 3-503 to clarify that certain determinations made in informal proceedings are not binding if supervised proceedings are commenced on account of the discovery of additional assets.

13. Amend Section 3-203 by adding a new paragraph (9) which requires the clerk of the court to serve as the personal representative if no other person is willing to so serve.

Reason: Under both Act 200 and present Hawaii law, there is no clear procedure for appointing a personal representative for an estate if no one is willing to serve. An example of this type of situation is a decedent who negligently killed himself and another party. The estate of the other party wishes to sue the estate of the decedent so as to seek recovery against the decedent's liability insurer, but no one is willing to be appointed as the personal representative of the decedent's estate. The amended language would require the clerk of the court to serve as personal representative in this situation.

14. Amend Section 3-301 by making technical changes.

Reason: The amendments add clarity and tie in with the time periods set forth in Section 1-401. Paragraph (b)(4) is deleted since it conflicts with Section 3-303(b). The amendments to paragraphs (c) and (d) clarify that published notice is not required in informal proceedings unless required under Section 1-401 (e.g. a party entitled to notice cannot be located).

15. Amend Section 3-302 to shorten the period between the filing of an informal application and the issuance of letters.

Reason: Act 200 would have required the registrar to wait 40 days before issuing letters. This period was derived from the published notice provisions of Section 1-401(a)(3). Since published notice is not required in all informal proceedings, the amended section permits the registrar to issue letters as soon as 14 days after the last mailing or other delivery of notice to interested persons unless published notice is required, in which case the registrar would have to wait at least 40 days.

16. Amend Section 3-303 by making technical changes.

Reason: The amendments incorporate provisions relating to ancillary proceedings.

17. Amend Section 3-307 by deleting a requirement that the registrar delay issuance of letters for 30 days after the death of a nonresident decedent.

Reason: This language, found in the Uniform Probate Code, is designed to insure that interested persons have time to learn of the death of a nonresident decedent. Since the Hawaii version requires that notice be given and does not rely on the passage of time for people to learn of the decedent's death, the 30 day delay serves no purpose in this State.

18. Amend Section 3-308 to include a reference to ancillary proceedings.

Reason: As drafted, Section 3-308 appears to give the impression that the time limitations of Section 3-108 apply to ancillary proceedings when in fact such is not the case.

19. Amend Section 3-403(a) to clarify that published notice of the pendency of the action is not required to be made for the sake of creditors and others having a claim against the estate.

Reason: An "interested person" under Section 1-201(24) includes creditors and others having a claim against the estate. Section 3-801 requires that creditors be given published notice of the time and place for presentation of their claims. By this amendment, your Committee seeks to clarify that creditors etc. need not also get published or any other notice of the pendency of the probate proceedings.

20. Amend Section 3-502 to make reference to proof of service, to refer to Section 3-403 and to clarify that a personal representative may commence a supervised proceeding for any reason.

Reason: In general, the amendments add clarity. The reference to Section 3-403 and the deletion of the word "interested" is designed to exclude creditors and others claiming against the estate as persons entitled to notice of the pendency of a probate as discussed in paragraph 19 above.

21. Amend Section 3-503 to deal with the problems which arise when a probate is commenced informally and additional assets are discovered which bring the gross assets of the estate above the jurisdictional limit for informal probates.

Reason: As drafted, Act 200 does not specify the consequences which flow from the after-discovered assets. Under this bill, distributions made in good faith in the informal proceedings will not be disturbed, but the undistributed and after-discovered assets are to be administered in supervised proceedings. Your Committee feels that the informal determinations as to (1) whether or not the decedent left a valid will, and (2) who is entitled to succeed to the decedent's estate, should not be binding in the supervised proceedings since it is conceivable that interested persons may have chosen not to participate in the informal proceedings on account of the small size of the estate. Your Committee feels that these persons should have the right to participate in the supervised proceedings and to advance evidence relating to the testacy status and successors of the decedent.

22. Amend Section 3-706(b) to make reference to after-discovered assets and to make reference to Section 3-403.

Reason: The reference to after-discovered assets ties in with the amendment of Section 3-503 discussed in paragraph 21 above. The reference to Section 3-403 is for the same reason discussed in paragraphs 19 and 20 above.

23. Amend Section 3-707 to establish a procedure for resolving a contested valuation of an asset of the estate.

Reason: Your Committee anticipates that conflicts may arise over valuations of estate assets set either by the personal representative or his appraiser or by a court appointed appraiser. The amendment provides that the conflict shall be resolved at a court hearing.

24. Amend Section 3-801 by making technical changes.

Reason: The reference to Section 3-804 is necessary in case the nominee for personal representative is not appointed. The deletion of "shall" and its replacement with "may" reflects the legislative desire to accord personal representatives discretion as to when to publish notice to creditors.

25. Amend Section 3-803(c) to clarify when a suit against the decedent's liability insurer must be brought.

Reason: This amendment adds clarity.

26. Amend Section 3-805(a) to rearrange the classification of claims and to limit the amount of the family allowance with priority over creditors' claims to $6,000.

Reason: Your Committee has recommended that the $6,000 ceiling on the family allowance be eliminated. (See paragraph 8 above). Your Committee does not intend that the entire estate be paid out in the form of a family allowance if to do so is to disadvantage creditors. Accordingly, only the first $6,000 of family allowance has priority over creditors' claims. The amendment rearranging the priority of payment is designed to accord

higher priority to the allowances for spouses and dependents (family and homestead allowances) than to the allowance which does not turn on dependency (exempt property).

27. Amend Section 3-1001 to accord the court discretion to extend the time within which final accounts must be filed in supervised proceedings and by making other technical changes.

Reason: Granting the court discretion to extend the time within which to file final accounts is a continuation of present Hawaii law (Section 531-31, Hawaii Revised Statutes). The other amendments add clarity.

28. Amend Section 3-1003 to accord the registrar discretion to extend the time within which final accounts must be filed in informal proceedings and by making other technical changes.

Reason: See comment to paragraph 27 above. The technical amendments add clarity.

29. Amend Section 3-1201 to require that a death certificate accompany an affidavit in which the affiant seeks collection of the decedent's assets.

Reason: As drafted, Act 200 permits affidavit collection without clear proof of the decedent's death. The amendment seeks to plug this loophole.

30. Amend Section 3-1202 to refer to Section 3-1201.

Reason: The amendment adds clarity.

31. Amend Section 3-1205 to increase the jurisdictional limit to $20,000.

Reason: As introduced, S. B. No. 1074 would have increased the jurisdictional limit of the small estates clerk from $10,000 to $30,000. The Senate recommended that this amendment not be made and deleted it from S. D. 1. The House favored the amendment and restored the $30,000 figure in H.D. 1. Your Committee has compromised at $20,000. Your Committee feels that increasing the jurisdictional limit to $20,000 will substantially increase the number of persons able to utilize the services of the small estates clerk without so overburdening the office as to make it inefficient.

32. Amend Section 3-1206 by adding a new paragraph (h).

Reason: Under Freitas vs. Gomes 52 Haw. 145 (1970) discussed in paragraph 2 above, it seems clear that the notice by publication provisions of existing Hawaii law fail to meet constitutional standards of due process. Nonetheless, since experience has shown that probates handled by the small estates clerk tend to be uncontroverted, your Committee is reluctant to impose burdensome notice requirements to satisfy constitutional standards, especially when the size of the estate is such that the potential cost of complying with constitutional standards may be disproportionately large. Accordingly, your Committee has established a $10,000 cut off: for estates of $10,000 or less, published notice of the pendency of the action is all that is required; for estates in excess of $10,000, the more thorough notice requirements applicable to informal probates apply. However, this Section does not prevent the small estates clerk from using the more thorough notice procedures for estates of $10,000 or less, but he is not required to do so.

33. Amend Sections 3-1207 and 3-1208 by making technical changes.

Reason: The amendments conform to the alternative notice provisions of Section 3-1206 discussed in paragraph 32 above.

34. Amend Sections 3-1209 and 3-1210 to make reference to Section 3-805.

Reason: The amendments are intended to clarify that the allowances and exempt property set forth under Part 4 of Article II apply in small estates proceedings.

35. Amend Section 3-1211 to place a $300 ceiling on the fees payable to the small estates clerk.

Reason: Before Act 200, the small estates clerk had a jurisdictional limit of $3,000 and charged a fee of 3 per cent of the estate. Act 200 increased the jurisdictional limit to $10,000 and did not change the fee. This bill increases the jurisdictional limit to $20,000 (see paragraph 31 above). In order not to discourage people from seeking the assistance of the small estates clerk, your Committee has imposed a maximum fee

of $300. This would have been the maximum fee if this legislature did not increase the jurisdictional limit from $10,000 to $20,000, and your Committee does not feel that the amount of work required on account of a $20,000 estate is much greater than that required for a $10,000 estate.

36. Add a new Section to be designated as Section 4-207.

Reason: The amendment clarifies that ancillary proceedings are governed by the other provisions. The language and section designation are that of the Uniform Probate Code.

37. Amend Section 5-102 to permit consolidation of protective and guardianship proceedings.

Reason: Where consolidated proceedings can be permitted without disrupting court procedures, savings in both time and money can be realized. Your Committee feels that the courts should have the option to permit such consolidation.

38. Add a new Section to be designated as Section 5-105 relating to the compensation of guardians ad litem.

Reason: The amendment clarifies that the family court has the authority to award reasonable compensation to guardians ad litem.

39. Amend Sections 5-204, 5-304, and 5-401 to permit the appointment of a nonresident as a guardian if nominated by the will of a parent.

Reason: Without this amendment, a Hawaii resident would have to nominate another Hawaii resident as the guardian of his children. Thus, a person whose entire family resides elsewhere would be precluded from nominating a family member as a guardian. Your Committee considers this to be an unwise and unjust provision.

40. Amend Sections 5-207, 5-303, 5-404, 5-405 and 5-407(b) for minor technical reasons.

Reason: The amendments add clarity and increase the Court's discretion.

41. Amend Sections 5-501 and 5-502 to clarify that all powers of attorney automatically terminate upon the death of the principal notwithstanding any language in the power of attorney and whether or not the attorney in fact has knowledge of the principal's death.

Reason: The amendments add clarity.

42. Amend Sections 6-107 and 6-113 to include reference to the terminology "net contribution" which is defined in Section 6-101(6).

Reason: The amendments add clarity.

43. Amend Section 7-101 to include reference to Section 1-108.

Reason: Since Section 1-108 exempts most trustees from the requirement of registration, your Committee feels that making specific reference to that Section is appropriate and adds clarity.

44. Amend Sections 501-171 through 501-173, Hawaii Revised Statutes, relating to the land court, in numerous respects.

Reason: Upon the recommendation of the Judiciary, your Committee feels that land court title should not be granted upon the basis of the registrar's closing statement since the determination made in informal proceedings may be later reversed by court order. Accordingly, a land court certificate may only be issued with an order from a supervised closing. Your Committee points out that it construes the word "adjudication" appearing in Section 3-1006 as including an order issued under Section 3-1001(a)(3), with the result that such an order is a conclusive determination of distributees upon which the land court may rely in issuing a new certificate.

45. Repeal Chapter 522, Hawaii Revised Statutes.

Reason: Section 2-801 covers the subject.

46. Amend Section 531-33, Hawaii Revised Statutes, in numerous respects.

Reason: The amendments add clarity.

47. Repeal Sections 533-14 and 533-15, Hawaii Revised Statutes.

Reason: The relevant provisions of these Sections are incorporated in Sections 2-205, 2-206 and 2-207. (See paragraph 5 above).

48. Amend Section 535-1, Hawaii Revised Statutes, by deleting reference to heirs, devisees, executor and administrator.

Reason: In view of broad power of the personal representative (see, e.g., Section 3-715(3)), it does not seem appropriate to specify that the heirs or devisees be made parties to a complaint seeking specific performance. H.D. 1 had deleted the words "in writing" which appear after the word "contract". Your Committee recommends that "in writing" be retained. By such retention, your Committee does not intend to suggest that no cause of action lies to enforce a conveyance of realty founded on other than a writing (e.g. part performance and detrimental reliance); rather, your Committee is reluctant to delete language which has been part of our law for over one hundred years in the absence of compelling reasons for such deletion. In addition, your Committee points out that it does not seek to change the case law to the effect that specific performance of a contract to convey realty is not within the four month nonclaim provisions of Section 3-803 (see e.g., Mossman vs. Hawaiian Trust Co., 45 Haw. 1 (1961).

49. Repeal Sections 535-2, 535-3, 535-4, 535-6 and 535-7, Hawaii Revised Statutes.

Reason: The law contained in these Sections is adequately covered by Sections 3-703(c), 3-711 and 3-715.

50. Repeal Section 551-22(a), Hawaii Revised Statutes.

Reason: This Section conflicts with Section 5-103.

51. Amend Section 656-1, Hawaii Revised Statutes, by adding language relating to pre-July 1, 1977 agreements.

Reason: The substantive language which is added is the same as that deleted last session. The purpose of the return to the former language is to clarify that the last clause of Section 656-1(7) applies to agreements made prior to July 1, 1977. As to post-July 1, 1977 agreements, Section 2-701 applies.

Your Committee on Conference is in accord with the intent and purpose of S. B. No. 1074, S.D. 1, H.D. 1, as amended herein and recommends that it pass Final Reading in the form attached hereto as S. B. No. 1074, S.D. 1, H.D. 1, C.D. 1.

Representatives Yamada, Cobb, Uechi, Ueoka and Medeiros,
Managers on the part of the House.

Senators Nishimura, Hara, O'Connor, Leopold and Chong,
Managers on the part of the Senate.

Conf. Com. Rep. No. 37 on H.B. No. 171

The purpose of this bill is to amend the election laws in order to achieve and maintain an efficient and effective election system. The effect of this bill is the implementation of methods and procedures which would result in an improved election administration.

Accordingly, this bill amends the Hawaii Revised Statutes as follows:

Section 11-13 is amended for clarity and consistency.

Section 11-13(8), relating to computing the term of residence, is repealed because there is no durational residency requirement.

Section 11-14 is amended to provide that copies of voter lists and tabulating cards or computer tapes may be released pursuant to county ordinance, and to provide for correlation of registration information from all counties to prevent duplicate registration and to compile election reports.

Section 11-24 is amended to permit voter registration up to the first workday after the close of registration if the close of registration date falls on a weekend or holiday.

Section 11-65 is amended to provide a specific timetable for the disqualification hearings of political parties.

Section 11-72 is amended to allow the chief election officer to select precinct officials from outside the representative district if there are no qualified officials readily available to serve in the representative district. Said Section is further amended to delete the requirement to draw lots when there is an excess of precinct officials desiring to serve in that precinct. The requirement to make a list of precinct officials by representative district not later than 4:30 p.m. on the tenth day prior to the election is also deleted.

Section 11-77 is amended to delete the reference to absentee precincts to conform to amendments made in Chapter 15, and to provide for observation by watchers of absentee polling place operations to conform with the intent of said Section.

Section 11-112 is amended to authorize use of a background design on the ballot, and to clearly allow the use of pre-punched codes and information related to districts and precincts in order to facilitate the electronic data processing of the ballots.

Section 11-113 is amended to delete the August 31st deadline for submission of the names of presidential and vice presidential candidates by the chairman of the State central committee of each qualified political party. All requirements are to be met 60 days prior to the general election, as is already provided for in said Section. Said Section is also amended to provide that the number of petition signatures required would be based on the total votes cast at the last general election rather than on the number of registered voters in the State. It is your Committee's desire that such petition contain no additional information which would be unduly burdensome on the person or groups circulating such petition.

Section 11-115 is amended to allow for a larger voting area on the ballot for the president-vice president and governor-lieutenant governor races.

Section 11-152(b) is amended to eliminate the requirement for the chairman of the precinct officials to open the ballot boxes prior to the ballots being taken to the counting center. This will allow transfer of ballot boxes with voted ballots directly from the precinct to the counting center.

Section 12-6(4) is amended to comply with the State Attorney General's opinion that the nomination paper for the indigent candidate cannot also be used as the petition demonstrating the seriousness of his candidacy.

Section 12-8 is amended to provide for evidentiary hearings in the case of objections made to nomination papers. However, the candidate would not have the right to an administrative contested case hearing as defined in Section 91-1(5), Hawaii Revised Statutes.

Section 14-23 is amended to specify that presidential electors and the alternates must be registered voters of the State.

Section 16-23 is amended to eliminate all requirements for folding the paper ballot, enabling the use of a card as well as a paper ballot.

This bill also provides for a new section to be added to Chapter 12 requiring candidates for public office to be residents of their respective districts for a period of at least 3 months prior to the filing of their nomination papers.

There is a governmental interest in requiring the candidates to be residents of the districts they seek to represent. Residency requirements are a necessary means of achieving the goal of having knowledgeable and qualified people in public office.

The legitimate governmental goal to which the residency requirement is rationally related is the state's interest in promoting knowledgeable candidates. The residency requirement tends to increase the probability that potential office-seekers will be exposed to the needs of the districts and that the constituents might reasonably believe that the potential candidates will be motivated to become knowledgeable about issues of importance within their particular districts.

Your Committee feels that the role of the legislator is to represent the views of his constituents. In order to represent his district, the legislator should be familiar with his constituents and their needs. In order to insure that candidates for representative office acquire

a familiarity with the people and the area which they seek to represent, your Committee has included the 3 months residency requirement.

Your Committee further believes that another legitimate interest in imposing a residency requirement is in preventing frivolous and fraudulent candidacies by persons who have had no previous exposure to the problems and desires of the district which they seek to represent.

Your Committee upon further consideration has made the following amendments to H.B. No. 171, H.D. 1, S.D. 1:

(1) To clarify Section 12-6 relating to the closing date for nominations, by adding the word "calendar" after the word "sixtieth" on lines 2 and 3 of page 24 of the bill.

(2) By deleting the reference at lines 3 through 6 at page 5, making unauthorized use of information obtained from voter records a misdemeanor for purposes of consistency since section 5 of the bill was previously deleted.

Your Committee also made some typographical, capitalization, and nonsubstantive technical changes to conform the bill with the statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 171, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 171, H.D. 1, S.D. 1, C.D. 1.

Representatives Garcia, Blair, Cobb, Uwaine, K. Yamada and Medeiros,
Managers on the part of the House.

Senators Nishimura, Chong and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 38 on H.B. No. 1065

The purpose of this bill is to revise the environmental impact statement (EIS process by amending Chapter 343 of the Hawaii Revised Statutes.

This bill would allow the various counties of the State of Hawaii to designate areas within the county which would require on EIS.

Your Committee upon further consideration has made the following amendments to H.B. No. 1065, H.D. 1, S.D. 1:

(1) The addition of three definitions, "Approval", "Discretionary Approval", and "Environmental Assessment."

(2) The specific requirement for an assessment before a determination as to the necessity of an EIS.

(3) The addition of actions within the Special Management Areas, established pursuant to Chapter 205A to those actions which would require an environmental assessment.

(4) The establishment of procedures whereby exempt classes of actions are established.

(5) Providing standing to sue to the Environmental Quality Commission (EQC) or the agencies responsible for approval of an action in cases where an action is undertaken without a determination that an EIS is or is not required.

(6) Providing that contestable issues by the commission are unlimited.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1065, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1065, H.D. 1, S.D. 1, C.D. 1.

Representatives Blair, Larsen, Lunasco, Toguchi and Poepoe,
Managers on the part of the House.

Senators King, Chong, Hulten and George,
Managers on the part of the Senate.
(Senator Hulten did not concur)

Conf. Com. Rep. No. 39 on H. B. No. 1698

The purpose of this bill is to amend Chapter 295, Hawaii Revised Statutes, relating to Hawaii's No-Fault automobile insurance law.

Chapter 294 creates a system of reparations for accidental harm and loss arising from motor vehicle accidents, which compensates these damages without regard to fault, and limits tort liability for these accidents.

While the basic intent and purpose of said Chapter 294 remains valid, there is need to make further amendments and modifications in order to refine the motor vehicle reparations system.

Section 1 of the bill amends Section 294-2 (10)(D) to clearly state that substitution services which may be provided through no-fault benefits do not include those to maintain or to generate income but to benefit the insured and his family.

Section 3 of the bill amends Section 295-5. Your Committee has retained the original title of this Section: "Payment from which insurer." This amendment is to clarify the primacy of workers' compensation and other laws and to require the insured to apply for these primary benefits when the automobile injury is work related.

Additional language has been added to Section 294-5(b) to provide an adequate safeguard for the consumer if his claim is contested. In that case, the insurer would immediately step in and pay all no-fault benefits, and if the claim was later found compensable under workers' compensation, the insurers would be entitled to receive back those primary benefits paid.

Your Committee has further amended Section 294-5 by deleting the requirement that no-fault benefits be paid secondarily and net of benefits from public assistance laws. This is done to insure that Hawaii law will not be in conflict with federal regulations requiring that medicaid and other federally funded public assistance programs be a secondary source of resource to other available sources. The law, as currently stated, makes public assistance benefits primary to no-fault benefits, and accordingly the law is so amended.

Section 4 of the bill amends 294-6 (b). This Section is amended to make clear that a person sustaining accidental harm from motor vehicle accidents must meet all of the tort threshold requirements before that person can exercise his right to receive benefits under his uninsured motorist bodily injury coverage.

Section 5 of the bill amends Section 294-7. This Section is amended to clearly set forth the intent of the Legislature when it passed the Hawaii No-Fault Law. Whenever any person effects a tort liability recovery for accidental harm, whether by suit or settlement, the no-fault insurer shall be subrogated to fifty per cent of the no-fault benefits, up to the maximum limit ($15,000) specified by Section 294-3(c). Therefore, if the no-fault insurer paid no-fault benefits in excess of $15,000 the proper application of the present law as specified in Sections 294-2(10), 294-3, 294-4 and 294-10, Hawaii Revised Statutes, leaves no room for interpretation but that the maximum amount that the no-fault insurer shall be subrogated is fifty per cent of $15,000. The no-fault insurer cannot be subrogated with respect to the optional additional coverages, which by rules and regulations of the Commissioner of Motor Vehicle Insurance each insurer is required to offer each applicant.

This amendment would further clarify the intent of the Legislature that a person sustaining accidental harm should be provided equitable and adequate reparation.

Section 6 of the bill amends Section 294-11 (a)(3). This Subsection is amended by adding a clarification to permit the provision of aggregate limits with respect to the optional additional tort liability coverages. Both the statute and the rules are silent as to provision of an aggregate limit per occurrence on the optional limits above $25,000. All other lines of liability insurance is written with a maximum limit per accident (aggregate limit), as was automobile prior to no-fault. This bill would permit the use of an aggregate limit but even if the aggregate limit is reached, there would still be $25,000 per person

available regardless of the number of persons injured.

Section 7 of the bill amends Section 294-13(j). This Subsection is amended to extend the present open-competitive rating system, which expires August 31, 1978, for an additional five years. In his Annual Report to the Legislature, the Commissioner of Motor Vehicle Insurance has indicated that the present open-competitive rating system is working to the benefit of the consumers. This appears to be the most workable and effective approach to automobile insurance rate regulation for Hawaii. An extension of this system would allow the Commissioner of Motor Vehicle Insurance more time to carefully analyze and evaluate the merits of this concept of open-competition.

Section 8 of the bill amends Section 294-23(b). This Section is amended to preclude not only the owner or operator but also any passenger who has reason to believe that the vehicle was an uninsured motor vehicle from collecting no-fault benefits from the HJUP assigned claims plan.

Section 9 of the bill amends Section 294-30. This Section is amended to facilitate better claims service relating to attorney's fee which is treated separately from other no-fault benefits and that this attorney's fee be paid directly by the insurer to the attorney.

Your Committee has deleted proposed amendments to Sections 294-22 and 294-24. These amendments were designed to eliminate the concept of providing a no-cost no-fault policy to welfare recipients through the Hawaii Joint Underwriting Plan (hereinafter HJUP).

Section 294-2 is amended to clarify that no-fault benefits for public assistance recipients insured by the HJUP does not include medical, rehabilitative, and lost income benefits.

Section 294-2 is further amended to add a definition of a person receiving public assistance benefits. This definition will make clear who will not receive medical, rehabilitative, and lost income benefits under a no-cost no-fault policy.

Your Committee has given careful consideration to the issue of providing free no-fault insurance to welfare recipients.

Many have asked why should a person on welfare have a private passenger vehicle. Federal regulations require that public assistance recipients in the AFDC category of aid, the largest of the welfare programs, be permitted to retain cars as an allowable resource. To adopt state eligibility requirements more rigorous than those of the Federal government may effect federal funding shares of the program.

Further, it should be pointed out that denying automobiles to welfare recipients has important economic ramifications. Should that happen, the State would become liable for the workrelated transportation expenses of 4,800 welfare recipients who are employed. The cost would be substantial. Additional costs to be borne by the State would stem from the need for those on medicaid to transport themselves to their health care provider. Since public transportation does not acquit itself well in the transport of the ill and infirm, especially in rural areas; the State would be paying for the use of ambulances and taxis as means of transportation.

It was then suggested that free no-fault be abolished and that claims by or against welfare recipients be handled by the assigned claims plan of the HJUP. This plan has the drawback of increasing the workload of the commissioner in processing such claims. The current system utilizes the skill and experience of insurers to handle such administrative tasks.

The abolition of free insurance was also suggested. It should however be kept in mind that the benefits of free no-fault coverage extend not to welfare recipients but to those who become involved in vehicular accidents with a vehicle covered at no-cost under the HJUP. If abolished, an injured person either turns to the assigned claims plan or to the uninsured motorist coverage of one's own policy for compensation and because of this, if free no-fault insurance affects premium rates, then abolition should also adversely affect rates. The truth is, regardless of the source of benefits, be it free no-fault, assigned claims, or uninsured motorist, if the ultimate source is an insurance company, in theory, rates will be affected. The abolition of free no-fault has other detrimental economic consequences due to the need for the State to compensate for work-related and medical-related transportation expenses discussed earlier.

In summary, your Committee has carefully considered the issue of providing free no-fault insurance to recipients of public assistance. The basis for your Committee's

conclusion that it should be continued is: (a) that your Committee is committed to the concept that all licensed drivers in the State should be covered by motor vehicle insurance, the concept being codified in the Motor Vehicle Accident Reparations Act of 1973, (b) the feeling that the abolition of free no-fault benefits to recipients of public assistance would cause a greater economic hardship on the State and its people, and (c) the interests of the people of the State and the insurance industry and the needs of recipients of public assistance.

But the fact that your Committee has reached the conclusion that the providing of free no-fault insurance to welfare recipients at the present time is desirable will not preclude your Committee from investigating and considering other ways to resolve the issue. Your Committee is open to all suggestions and solicits recommendations.

Further the findings of your Committee should not in any way be construed as condoning the possible abuses by public welfare recipients in obtaining free no-fault insurance recently publicized; but has not received any evidence that the alleged abuses are substantial or alarming. Your Committee however invites members of the public to report possible abuses and by this committee report requests the Department of Social Services and Housing to investigate and to eliminate such possible abuses if such are occurring.

Your Committee on Conference is in accord with the intent and purpose of H. B. No. 1698, H.D. 1, S.D. 1 as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1698, H.D. 1, S.D. 1, C.D. 1.

Representatives D. Yamada, Baker, Aki, Uwaine and Ikeda,
Managers on the part of the House.

Senators Nishimura, Chong, Hara, Kawasaki, Kuroda, Taira, George, and Leopold,
Managers on the part of the Senate.
(Senators Kawasaki, George and Leopold did not concur)

Minority Report on H. B . No. 1698

In disagreeing with the report of the Conference Committee on H.B. 1698, H.D. 1, S.D. 1, C.D. 1, the undersigned Senate conferees address themselves to your Committee's failure to meet directly the issue of whether or not welfare recipients should receive free automobile insurance.

While all other welfare costs are borne by the general public, the burden of free automobile insurance for welfare recipients is carried by the State's motorists, through increased no-fault premiums. The magnitude of the problem is shown by the dramatic increase in the number of cars belonging to welfare recipients. 6,824 cars were covered under the free program on June 30, 1975, and a year later this figure had soared to 10,185. Had normal premiums been paid for these cars, the total bill would have been $3.19 million.

Hawaii is the only state that provides free auto insurance to its welfare clients, a circumstance which the undersigned members of your Committee feel contributes to this extravagant total.

During the Conference Committee's deliberations, an alternative was proposed which would have insurance for welfare recipients paid out of the State's general fund. While in agreement with other conferees that this would not be a totally satisfactory solution, the undersigned members feel that at least it would spread these welfare costs among all the taxpayers, rather than maintaining the present inequity of asking motorists to shoulder the burden.

As a second alternative, it was proposed that welfare recipients share in the cost of the insurance premiums according to their capabilities, to be determined by Department of Social Services and Housing rules and regulations. This, too, was rejected.

While the undersigned members of your Committee recognize that all the citizens of this State do not have equal accessibility to public transportation, we suggest that welfare recipients whose transportation needs can be met by public transportation should not be automatically qualified for free automobile insurance. Rules and regulations could be formulated by the Department of Social Services and Housing to ensure equitable

treatment.

The preservation of the present system of open rating has somehow been held to be an essential ingredient of the conference draft of H.B. 1698. No matter what happens to the present bill, open rating will continue until September 1, 1978. There is no disagreement between the House and the Senate on this commendable concept, and it should not be used as an excuse for abandoning the position which passed the Senate by unanimous vote: that free no-fault auto insurance should no longer be given to welfare recipients.

Signed by Senators George and Leopold.

Conf. Com. Rep. No. 40 on S. B. No. 1464

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes, which shall institute a litter prevention and control program for the State of Hawaii.

Your Committee has amended the bill to give the director authority to employ a person without regard to chapters 76 and 77. It is the intent of the Committee that the director may hire temporary employees as necessary for implementation of this chapter.

The definition of "Litter bag" under Sec. -1 (5) on page 2, line 11 has been amended by deleting the words "inside a vehicle or watercraft."

The definition of "Litter receptacle" under Sec. -1 (6) has been amended to include the words "or other appropriate container."

Sec. -3 (2) Duties of the Director. Page 4, line 1 has been amended to indicate that the director serve as a coordinator between "State, state agencies and various organizations" rather than just between "State and various organizations."

Sec. -4 Prohibition. Page 4, line 16 has been amended to read "in a public place" rather than "upon any public property" and Sec. -4 (1), page 4, line 18, has been amended to read "In a place" rather than "On property" to conform with the definition of "public place" which appears on page 2, lines 16, 17 and 18.

Sec. -4 (2), page 4, line 21, has been amended to add the words "or litter bag" so that this line will now read: "Into a litter receptacle or litter bag."

Sec. -5 Responsibilities of owners and lessees of real property. The following exception has been added to the end of the first sentence, starting with the end of page 5, line 2: "except that in no way will the statute be used to release the State and County agencies from continuing their present level of public property maintenance." It is the intent of the Committee that the primary responsibility shall rest with the property owner.

Sec. -8 Penalties. Page 5, line 23 has been amended to include the following qualification to the penalty which reads "or be ordered to pick up and remove litter from a public place:" "under the supervision of the director or as the court shall otherwise provide."

SECTION 3. Appropriations. The amount appropriated out of the general revenues of the State of Hawaii has been increased from $154,820 to $300,000, with all unencumbered funds to lapse on June 30, 1979 instead of June 30, 1978. It is the intent of the Committee that the director shall have the authority to accept cash in the form of governmental grants or allocations, or private contributions as well as to accept goods and services from governmental or private sources, such funds and/or goods and services to be used in accordance with provisions of this chapter and rules.

Your Committee has further amended this bill to provide that sections -6 and -7, in Section 2, shall take effect January 1, 1979 with the provision that the director may extend the deadline if necessary for a period not to exceed six months. It is the intent of the Committee that the director report on progress in implementing the provisions of this Act to the Ninth State Legislature, Regular Session of 1978.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1464, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1464, S.D. 2, H.D. 2, C.D. 1.

Representatives Blair, Larsen, Morioka, Naito and Poepoe,
Managers on the part of the House.

Senators R. Wong, King, Kuroda, Hara, O'Connor and George,
Managers on the part of the Senate.

Conf. Com. Rep. No. 41 on H. B. No. 180

The purpose of this bill is first to amend section 155-8, Hawaii Revised Statutes, to allow the department of agriculture flexibility in setting interest rates for all direct farm loans by setting the maximum interest rate to the going prime rate; secondly to require the department of agriculture to make loans to independent sugar growers within the provisions of section 2 of this bill exclusive of section 155-9, Hawaii Revised Statutes, at an interest rate not to exceed two per cent per year, and for which no collateral shall be required; and finally to make an appropriation of $1,500,000 for the loans to independent sugar growers.

Your Committee finds that the purpose of loans to independent sugar growers is to cover deficits in financing of future crop plantings and deficits of revenues covering crop production loan advances of the sugar crop harvest. Any breakdown in financing will cause hardship and discourage further plantings. It is the Committee's intent that all independent sugar growers, both small and large, be assisted. Every acre kept in sugar production is crucial to the industry at this stage. Limit on loans and loan amounts should be governed by the 3,000 tons per year production provision which should accomodate all of the independent growers. In promulgating rules under Chapter 91, Hawaii Revised Statutes, the Department of Agriculture should consider loans based on deficits, since there are variations in yields and production and processing costs planting since settlement of the 1977 harvest will not be made until 1978. Should there be a shortage of funds to cover deficits for the 1977 crop harvest, loans should be made on a predetermiend ratio based on available funds over deficit. In the adoption of rules, the Department of Agriculture should also consult all affected parties, including independent sugar growers, commercial lending institutions and processors. Your Committee upon further consideration has made the following amendments to H.B. No. 180, S.D. 1:

a. By deleting the provisions which had expanded the definition of "qualified farmer" in section 155-1, Hawaii Revised Statutes. Your committee feels it is not desirable to include agricultural corporations with such definition.

b. By renumbering the sections in the bill to conform to this deletion.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 180, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 180, S.D. 1, C.D. 1.

Representatives Uechi, Garcia, Morioka, Suwa, K. Yamada and Poepoe,
Managers on the part of the House.

Senators R. Wong, F. Wong, O'Connor and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 42 on H. B. No. 1059

The purpose of this bill is to exempt State or County operated agricultural parks from County subdivision and zoning standards. The Counties are granted veto power over agricultural park projects developed under the provision of this bill.

Your Committee has amended this bill to specify that road maintenance within State-sponsored agricultural parks will not be a county responsibility. It is the intent of your Committee that road maintenance within State-sponsored agricultural parks be shared between the State and the agricultural park tenants. When the terms and conditions of agricultural park leases are formulated, provisions should be made for road maintenance.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1059, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1059, H.D. 1, S.D. 1, C.D. 1.

Representatives Uechi, Kawakami, Larsen, Lunasco, Fong and Inaba,
Managers on the part of the House.

Senators F. Wong, Hulten, Yim and Saiki,
Managers on the part of the Senate.

Conf. Com. Rep. No. 43 on S. B. No. 1100

The purpose of this bill is to clarify the operation of the roll back or deferred real property tax upon land used for agricultural purposes when the use of such land is changed from agricultural to rural or urban or when such land is subdivided.

Under present law, lands situated in a land use district classified agriculture by the state land use commission and actively being used for agriculture are assessed and taxed according to their actual agricultural use values. The law imposes a deferred or roll back tax when the commission changes the land use classification to an urban or rural use district upon petition by a property owner or lessee or upon the subdivision of agricultural land into parcels of five acres or less. The deferred tax is imposed upon all lands situated within the boundaries of the land use change and is therefore imposed also upon owners who may not have petitioned for such land use change. The deferred tax is equal to the difference in the taxes between what the land would have been assessed in the higher and best use in agriculture and the tax at which the land was actually assessed. The deferred tax is imposed notwithstanding the fact the owner may still continue to use the land for the same agricultural use and, further, notwithstanding the fact the owner is not able to use the land for urban purposes because all of the requirements prescribed by governmental agencies, such as county zoning designations, have not been met in spite of the diligent efforts of the owner.

Under present law the deferred tax is due and payable within sixty days of the date of change in use and the owner shall be subject to a 10 per cent a year penalty. In order to avoid the tax and penalty the landowner is allowed to dedicate his land to agricultural use within one year from the date of the change.

This bill amends present law to provide that when the agricultural classification is changed to an urban or rural use classification, the land will continue to be assessed and taxed in its agricultural use for a period of three years. However, if the owner is able to put the land to the higher urban or rural use prior to the expiration of the three-year period, the agricultural assessment will terminate at the end of the year in which the land is put to such higher use. This amendment, therefore, will defer the assessment at the higher urban or rural use value for a maximum period of three years from the time the land use classification has been changed from agricultural to urban. The owner is also allowed three years in which to dedicate.

The bill retains the deferred or roll back tax but revises the application of the tax resulting from a change in land use classification to eliminate the inequitable placement on owners who do not petition to have a change in land use. No deferred taxes will be imposed where the change in classification is the result of a petition initiated by a governmental agency or where the owner or lessee is not the party who petitioned for a change. The deferred tax will apply only upon lands owned by an owner or lessee who has petitioned for the change. The tax is to be computed retroactively from the termination of the three-year period following the change in classification to the time the special agricultural assessment had begun but the total retroactive period is not to exceed ten years. The deferred tax is equal to the difference in taxes between what the land would have been assessed in the highest and best use and the tax at which the land was actually assessed. However, if the owner puts his land to a higher urban or rural use during this three-year "grace" period, the retroactive period shall commence at the end of the year in which the land has been put to the higher use. The provisions concerning subdivision remain the same.

Your Committee believes the amendments made by this bill will alleviate the inequities in the imposition of the roll back or deferred tax.

The bill also amends section 246-12, Hawaii Revised Statutes, the dedication law, to make it clear that a change in land use classification does not of itself constitute a breach of the dedication as a result of which the deferred tax would be made to apply.

Your Committee has amended the last section of the bill to provide that the provisions of the bill shall apply upon approval of the bill instead of January 1, 1978. Since the

provisions of the bill do not apply to assessment practices which are performed on a calendar year basis, there is no necessity to postpone such effective date.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1100, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1100, S.D. 1, H.D. 1, C.D. 1.

Representatives Uechi, Blair, Caldito, Garcia, Inaba, Kawakami, Larsen, Morioka, Naito, Suwa, Toguchi, K. Yamada, Carroll, Fong, Poepoe and Lunasco,
Managers on the part of the House.

Senators R. Wong, F. Wong and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 44 on S. B. No. 1308

The purpose of this bill is to provide a mechanism for citizen input into governmental activities with regard to crime, through systematic and thoughtful development of new programs and review of ongoing programs, investigation, public education, and legislative recommendation functions.

Your Committee finds that crime adversely affects every person in the State and that all steps necessary to prevent crime should be taken. Your Committee feels that one important step would be to secure public input into determining the ways in which crime can be controlled. The establishment of a crime commission for such purpose is therefore most appropriate to the ultimate goal of controlling crime.

Your Committee upon further consideration has made the following amendments to S.B. No. 1308, S.D. 2, H.D. 1:

(1) The Commission is given the power to hold public hearings in accordance with its functions. Though Sec. -6 Conduct of business, procedures. indirectly confers the power to hold public hearings, your Committee feels that such functions should be explicitly set forth.

(2) The commissioners are to be appointed by the governor with the advise and consent of the Senate. Your Committee feels that the governor instead of lieutenant governor should appoint the commissioners to avoid any possible constitutional problems in the appointive powers of the governor.

(3) The sum appropriated out of the general revenues of the State of Hawaii is to be $100,000 instead of $75,000. Your Committee feels that $100,000 is a more reasonable figure for the initial eighteen-month period.

In addition, your Committee made technical changes to conform the bill to the amendments made by your Committee.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1308, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. 1308, S.D. 2, H.D. 1, C.D. 1.

Representatives Garcia, Blair, Dods, Naito, Peters and Medeiros,
Managers on the part of the House.

Senators R. Wong, Nishimura, Yim and Anderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 45 on H. B. No. 137

The purpose of this bill is to amend Act 151, Session Laws of Hawaii 1975, which established the State Program for the Unemployed (SPU), as amended by Act 134, Session Laws of Hawaii 1976, by extending the program through fiscal year 1977-78. It also expands SPU by authorizing the Director of Labor to provide all forms of job training under State Comprehensive Employment and Training (SCET); specifying that the director may subsidize all forms of job training conducted by both public and private agencies under State Assistance for Certain Employment; eliminating the "economically disadvantaged"

certification requirement under State Assistance for Certain Employment; and allowing for the employment of civil service exempted staff necessary for the program's administration. Further, inherent sex discrimination references under the definitions and program priorities used in the implementation of Act 151 were deleted.

Act 151, Session Laws of Hawaii 1975, established the State Program for the Unemployed (SPU) which was designed as a one-year program to mitigate the effects of the state's high unemployment rate through three components. Part II, State Comprehensive Employment and Training (SCET), provides public service jobs; Part III, State Assistance for Certain Employment, subsidizes employers agreeing to train and hire unemployed persons for permanent employment; and Part IV, State Loans for Certain Employment, provides low interest loans to employers willing to hire and train unemployed persons. Continued high unemployment in 1976 encouraged the legislature to extend the fund SPU for an additional year through Act 134.

Your Committee believes that unfavorable economic conditions and accompanying high unemployment in the State necessitates the continuance of SPU for an additional year. At the same time, however, your Committee feels that after two years of program implementation experience, certain program provisions should be changed to strengthen and improve the delivery of services to Hawaii's unemployed. Accordingly, your Committee upon further consideration, has amended the bill to lapse all prior appropriations unencumbered on June 30, 1977, appropriate $12,000,000 for the extension of the program an additional year, and make technical amendments such as correcting the inconsistency under section 5 of this bill where the word "private" was inadvertently left out. It is important to note this amendment because it expands the subsidy component of SPU to allow public agency participation.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 137, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 137, H.D. 2, S.D. 2, C.D. 1.

Representatives Takamine, Mina, Mizuguchi, Peters, Stanley and Ikeda,
Managers on the part of the House.

Senators R. Wong, Toyofuku and Anderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 46 on H. B. No. 12

The purpose of this bill is to lapse prior years appropriations which are no longer needed.

Your Committee finds that from such prior appropriations, there remain appropriations and appropriation balances which are unencumbered. The existence of these pending appropriations obscures the true fund balance of the State general fund, especially in those instances where the purposes of the acts have been accomplished.

The bill has been amended to provide the proper lapsing dates to certain prior years appropriations that lack provisions for the lapsing of unexpended or unrequired balances.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 12, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 12, H.D. 2, S.D. 1, C.D. 1.

Representatives Suwa, Caldito, Dods, Inaba, Kunimura, Lunasco, Mina, Morioka, Peters, Takamura, Larsen, Narvaes and Sutton,
Managers on the part of the House.

Senators R. Wong, Yamasaki, Yim and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 47 on H. B. No. 2

The purpose of this bill is to appropriate funds to the judiciary for the fiscal biennium July 1, 1977 to June 30, 1979.

The bill represents the proposed budget of the judiciary adjusted for salary turnover savings, deletion of non-essential positions, and other minor adjustments.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2, H.D. 1, S.D. 1, C.D. 1.

Representatives Suwa, Caldito, Dods, Inaba, Kunimura, Lunasco, Mina, Morioka, Peters, Takamura, Larsen, Narvaes and Sutton,
Managers on the part of the House.

Senators R. Wong, Hara, Hulten, King, Kuroda, Nishimura, O'Connor, Toyofuku, Yamasaki, Yim, Young, Anderson, Henderson and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 48 on H. B. No. 5

The purpose of this bill is to provide appropriations to fund for the fiscal year 1976-77, collective bargaining cost items negotiated with the exclusive bargaining representative of Unit 1, blue collar non-upervisory employees, as well as salary increases and other adjustments for employees excluded from Unit 1. This bill also provides appropriations to maintain for the fiscal biennium 1977-79, the level of increases approved for fiscal year 1976-77.

Your Committee has amended Section 2 of the bill to correct an error in the designated source of funding in the appropriations for fiscal years 1977-78 and 1978-79.

Your Committee has amended the bill further, to provide appropriations for the fiscal biennium 1977-79 to fund collective bargaining cost items in the new agreements negotiated with the exclusive bargaining representatives. A new part II has been added to provide appropriations for cost items in the agreements negotiated for bargaining units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 13. Provisions have also been made for salary increases and other adjustments for officers and employees excluded from the foregoing bargaining units, as well as authorization for the Director of Finance to allot the funds.

A new part III has been added to provide appropriations for the fiscal biennium 1977-79 to fund collective bargaining cost items in the agreements negotiated with the exclusive representatives of the bargaining units within the Judiciary. Provisions have also been made for the Chief Justice to utilize funds appropriated for salary increases and other adjustments for officers and employees excluded from collective bargaining. Funds appropriated are to be allotted by the Administrative Director of the Courts.

Your Committee has amended the bill further by replacing Section 5 and 6 of the bill with a new part IV which contains general provisions relating to the appropriations provided in the bill. It provides for salary increases which are funded in whole or in part by funds other than general funds, to be paid, wholly or proportionately, from the respective funds. It further provides for lapsing of appropriated or authorized funds not expended or encumbered by June 30th of the respective fiscal period for which such funds were authorized or appropriated, with the exception that for funds appropriated for the fiscal year 1976-77, the lapsing date shall be September 30, 1977.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 5, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 5, H.D. 2, S.D. 1, C.D. 1.

Representatives Stanley, Suwa, Dods, Machida, Medeiros and Peters,
Managers on the part of the House.

Senators R. Wong, Toyofuku, Yim, Kuroda and Henderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 49 on H. B. No. 15

The purpose of this bill is to provide for an increase in the salary of the Revisor of Statutes.

Your Committee finds that there is a gross imbalance between the salary fixed for the Revisor of Statutes and the salaries established for other comparable positions in

the State.

Your Senate Committee on Judiciary, in reporting out S.B. No. 512, which became Act 191, Session Laws of Hawaii 1959, which established the Office of Revisor of Statutes, stated:

"Your committee believes that the salary of the revisor should be sufficient to attract a well qualified person and suggests a salary comparable to that paid the assistant attorney general..." (Standing Committee Report No. 63).

Your Committee concurs that the Office of the Revisor of Statutes is a legal position. Its basic concern is statutory revision. Statutory revision is the function of organizing the ever-growing bulk of laws into an orderly system so that the laws can be more easily found, understood, applied, and changed. It involves the harmonizing of the language of the entire body of statute law and the elimination of duplications and contradictions, and other obsolete provisions. It involves adjusting the acts and parts of acts judicially declared invalid and the provisions of law impliedly amended or repealed. It means executing these functions without changing the substance or effect of the existing law. Thus, it involves the exercise of judgment on legal questions and goes well beyond mere matters of form, style and accuracy of reference. These functions call for a person with legal qualifications or training--a person with good general competence in the law, with skill in statutory interpretation, in drafting, and in exacting editorial work.

After much discussion, your Committee recommends that this bill be amended to include the H.D. 1 provisions, transferring the statute revision and publications of laws program from the Office of the Revisor of Statutes to the Legislative Reference Bureau. The intent is to clarify matters of the administration of the Office of the Revisor of Statutes and to place the entire program under the legislative branch. At the present time, staff appointments for the Office are made by the Supreme Court, but the Office functions are under the Legislative Reference Bureau for administrative purposes. This organization scheme is not conducive toward the maximum use and efficiency of the Office of the Revisor of Statutes, and the full advantage of the Office to the State is not realized. Your Committee agrees that a meaningful improvement in the legislative process will result from the full transition of the Office of the Revisor of Statutes into the legislative branch.

A further intent of this bill is to increase the efficiency of the legislative service agencies. It proposes to reorganize the statute revision and publication program by combining it with related legislative services that are rendered by the Legislative Reference Bureau. The Office of the Revisor of Statutes as a separate agency is to be abolished and all of its functions are to be transferred to the Bureau. The appointing and approving power of the Supreme Court over the Revisor of Statutes will be terminated.

The Director of the Legislative Reference Bureau or a person delegated by him will become the "Revisor of Statutes", thus preserving the designation recognized among the various states for the official charged with the statute revision program.

The Bureau will be responsible for:

(1) The publication of the session laws;

(2) The publication of supplements to the revised statutes;

(3) The publication of replacement volumes of the revised statutes;

(4) The review of annotations to the revised statutes; and

(5) The continuous revision of the statutes of Hawaii.

In carrying out this program, the Bureau will have the same authority given to the present Revisor of Statutes to enter into contracts with or without regard to the laws governing public contracts or public printing. Distribution and sale of the laws will remain under the Lieutenant Governor.

Noncivil service employees (the Revisor of Statutes and two Assistant Revisors) will be transferred to the Bureau. Given the current salary range of positions in the Bureau, it is the intent of your Committee that the Revisor of Statutes and his assistants should justifiably receive substantial salary increases upon being transferred to the Bureau. Your Committee is in accord with the proposition that the Revisor of Statutes should be accorded a Division Head status within the Bureau. The present Revisor of Statutes

may retain his title and position. Your Committee feels that the salary for the positions of the Revisor of Statutes and his first Assistant should be adjusted so that it is commensurate with the duties and responsibilities of the position and in line with the salaries provided other comparable positions in public service and the Bureau.

Civil service employees (two clerks) will be given the option of remaining in civil service by shifting to positions in the judiciary or transferring to positions in the Bureau exempted from civil service. No loss of any other right of public employment will result from this reorganization of the Office of the Revisor of Statutes.

Chapter 2, Hawaii Revised Statutes, is to be repealed, but similar provisions will be added as a new part to Chapter 23G, Hawaii Revised Statutes, relating to the Legislative Reference Bureau.

Your Committee recommends that the sum of $20,000 be appropriated for the purposes of this Act.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 15, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 15, H.D. 1, S.D. 1, C.D. 1.

Representatives Suwa, Caldito, Dods, Inaba, Kunimura, Larsen, Lunasco, Mina, Morioka, Peters, Takamura, Narvaes and Sutton,
Managers on the part of the House.

Senators R. Wong, Nishimura and Anderson,
Managers on the part of the Senate.

Conf. Com. Rep. No. 50 on S. B. No. 3

The purpose of this bill is to appropriate or authorize, as the case may be, funds for the financing of general public improvements for the fiscal year 1977-78.

The projects herein contained have been conceived to accommodate current capital improvement requirements. They are formulated consistent with the comprehensive implementation of state programs, notwithstanding that your Committee has provided for the appropriation of funds to the counties sufficient for the purpose of meeting the responsibilities of local government to preserve and enhance the current level of public benefit. Appropriations are provided for state and county projects, including parks and recreational facilities, highway improvements, and educational facilities.

Compared to prior years, your Committee has reduced the number of projects and the total amount appropriated. This reduction is in keeping the legislature's recognition of the debt ceiling, the rising debt service costs, and our continuing attempt to control such costs.

Your Committee is in accord with the intent and purpose of S.B. No. 3, S.D. 1, H.D. 1, as amended herein, and recommends its passage on final reading in the form attached hereto as S.B. No. 3, S.D. 1, H.D.1, C.D. 1.

Representatives Suwa, Caldito, Dods, Inaba, Kunimura, Larsen, Lunasco, Mina, Morioka, Peters, Takamura, Narvaes and Sutton,
Managers on the part of the House.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yamasaki, Yim, Young, Anderson, Henderson and Soares,
Managers on the part of the Senate.

Conf. Com. Rep. No. 51 on H. B. No. 892

The purpose of this bill is to provide appropriations for the fiscal biennium July 1, 1977 to June 30, 1979 and authorize the issuance of bonds.

BACKGROUND TO THE BUDGET

Your Committee's deliberations and decisions in formulating the state budget were

characterized by confrontations with economic uncertainties and the harsh realities of limited financial resources.

Hawaii's economy remains unsettled. The sugar industry--one of our major economic props--is being severely affected by low prices. Industry receipts have dropped from a peak of $685.2 million in 1974 to an estimated $250 million in 1976. There have, however, been some recent hopeful signs that the plight of the domestic sugar industry has been recognized at the federal level and that relief will be forthcoming.

Unemployment in Hawaii continues to persist at a high level with the construction industry being particularly hard hit. Many building trades workers are "on the bench" and their employers, contractors and sub-contractors, are struggling for economic survival.

As a consequence of the slowdown of the Hawaii economy, the State's tax revenue projections are less than firm. Prudence dictates that State expenditures over the next fiscal biennium be approached cautiously with respect to expenditures from the general fund as well as with respect to bond issuance and debt service which have an impact on the general fund. Both the Senate and the House of Representatives, in their respective drafts to the budget, had pruned the executive budget recommendations, particularly in those programs where program expansion or other increases would appear to be ill-advised in a period of economic austerity and uncertainty. Your Committee has scrutinized the reductions made by the respective houses, and for the most part, it agrees that the reductions are justified and constitute a proper course to follow. The one major departure from reductions is the agreement by your Committee that $6.1 million should be appropriated in grants-in-aid to the counties, to help maintain the financial health of the local government.

DIRECTION TO AGENCIES OF THE EXECUTIVE BRANCH

In implementing the budget, the agencies of the executive branch are directed to carefully review Standing Committee Report No. 740 of the House of Representatives and Standing Committee Report No. 780 of the Senate. Both reports contain expressions of legislative intent, interest and concerns. To the extent that the expressions in the respective committee reports are consistent with the appropriation decisions made by your Committee and the general and special provisions contained in the bill as agreed upon by your Committee, the expressions in the standing committee reports shall be regarded as expressions of your Committee and upon enactment of the bill, they shall constitute direction to the agencies of the executive branch.

RECOMMENDATION

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 892, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 892, H.D. 1, S.D. 1, C.D. 1.

Representatives Suwa, Caldito, Dods, Inaba, Kunimura, Lunasco, Mina, Morioka, Peters, Takamura, Larsen, Narvaes and Sutton,
Managers on the part of the House.

Senators R. Wong, Hara, Hulten, King, Kuroda, O'Connor, Toyofuku, Yamasaki, Yim, Young, Anderson, Henderson and Soares,
Managers on the part of the Senate.

SPECIAL COMMITTEE REPORTS

Spec. Com. Rep. 1

Your Committee on Credentials begs leave to report that it has thoroughly considered the matter of the seating of the members-elect of the House of Representatives of the Ninth Legislature of the State of Hawaii, Regular Session of 1977, and finds that the following members-elect are duly qualified to sit as members of the House of Representatives, to wit:

First District:	Jack K. Suwa
Second District:	Herbert A. Segawa Katsuya Yamada
Third District:	Yoshito Takamine
Fourth District:	Minoru Inaba
Fifth District:	Richard L. Caldito, Jr. Gerald K. Machida
Sixth District:	Ronald Y. Kondo Meyer M. Ueoka
Seventh District:	Robert D. Dods Donna R. Ikeda
Eighth District:	Steve Cobb Jack Larsen
Ninth District:	Ted T. Morioka Calvin K.Y. Say
Tenth District:	Ken Kiyabu Lisa Naito
Eleventh District:	John S. Carroll Kinau Boyd Kamalii
Twelfth District:	Carl T. Takamura Clifford T. Uwaine
Thirteenth District:	Neil Abercrombie Hiram L. Fong, Jr. Charles T. Ushijima
Fourteenth District:	Russell Blair Kathleen Stanley
Fifteenth District:	Byron W. Baker Richard Ike Sutton
Sixteenth District:	Ted Mina Tony Narvaes
Seventeenth District:	Charles M. Campbell Richard Garcia
Eighteenth District:	Mitsuo Uechi James H. Wakatsuki
Nineteenth District:	Benjamin J. Cayetano Norman Mizuguchi
Twentieth District:	Daniel J. Kihano Mitsuo Shito

Twenty-First District:	James Aki Henry Haalilio Peters
Twenty-Second District	Oliver Lunasco Yoshiro Nakamura
Twenty-Third District:	Charles T. Toguchi
Twenty-Fourth District:	Ralph K. Ajifu Faith P. Evans
Twenty-Fifth District:	John J. Medeiros Andrew K. Poepoe
Twenty-Sixth District:	Jann L. Yuen
Twenty-Seventh District:	Richard A. Kawakami Tony T. Kunimura Dennis R. Yamada

Signed by Representatives Kondo, Cayetano, Blair, Kiyabu, Morioka, Naito, Narvaes and Poepoe

Spec. Com. Rep. No. 2

Your Interim Committee appointed pursuant to H.R. No. 314, adopted by the Regular Session of 1976 and directed to conduct a review of the law relating to child abuse and neglect, begs leave to report as follows:

Your Interim Committee's membership consisted of Representative Carl Takamura, chairperson; and Representatives Tony Kunimura, Kathleen Stanley and Tennyson Lum as members.

BACKGROUND

Prior to the adoption of the Child Abuse Law in 1967, the only provision relating to the subject was Section 108-7, Revised Laws of Hawaii 1955, which required the Department of Public Welfare to "establish, extend and strengthen services for the protection and care of neglected children and children in danger of becoming delinquent."

In 1967, the Fourth State Legislature adopted the Hawaii Child Abuse Law, hereinafter referred to as Chapter 350, Hawaii Revised Statutes. This law for the first time, required any person rendering medical services to minors, also school teachers, coroners and social workers, to report suspected instances of child abuse to the Department of Social Services and Housing. The adoption of this law reflected changes in the field of children's protective services in Hawaii and in the nation, where increasing public awareness of battered and abused children generated movement toward more stringent laws for children's protective services.

In implementing Chapter 350, HRS, the Department of Social Services and Housing established a Children's Protective Services Program. Protective services are provided in two steps by all members of the program. The first involves a crisis intervention service, where program workers respond to reports of suspected abuse or neglect.. The potential for change by parents suspected of child abuse is assessed to determine whether it would be in the best interest of the child to be removed from parental care. The second step involves corrective and rehabilitative work toward helping parents to resolve problems which result in child abuse.

In 1975, the Department of Social Services and Housing and the Hawaii Medical Association recommended that the term "abuse or neglect of a minor" under chapter 350, HRS, be amended to include the term "mental injury." The amendment would conform the state child abuse definition to the federal definition of child abuse and neglect set forth in the 1974 Federal Child Abuse and Neglect Prevention and Treatment Act (PL93-247). Failure to conform the state definition would have rendered the state ineligible for federal funding to support the State's Child Protective Services Program. As a result, Act 147, SLH 1975, refined the term "abuse or neglect of a minor" to include mental as well as physical injury.

However, experience with the amendment found the term "mental injury" to be vague and ambiguous. Criteria for assessing mental injury, and other changes in the child abuse law seemed necessary in order to enable the effective functioning of the law. H.R. 314 was therefore adopted by the House of Representatives at the 1976 Regular Session, calling for an interim review of possible Child Abuse Law amendments to clarify what constitutes mental injury.

APPROACH TAKEN

Standing Committee Report No. 633-76 recommending the adoption of H.R. 314 states in part: "In requesting the development of criteria for assessing "mental injury," your Committee is not requiring an exclusive definition, but is rather suggesting the establishment of useful guidelines." The suggestion for "guidelines" is a result of discussions during the 1976 session regarding the appropriate placement of such a definition, i.e., statute or departmental regulation, as well as the problem of developing a satisfactory and workable definition.

Your Committee therefore sought the participation of knowledgeable individuals from both the public and private sector, as well as legal experts in child abuse. This was a particularly critical aspect of your Committee's approach since there are no existing state statutes or case law to serve as a model for the development of guidelines relating to "mental injury" to children. Your Committee also felt it important that any proposed definition of "mental injury" be developed in consultation with agencies already in contact with child abuse cases.

Your Committee held public meetings on July 30, August 12, September 8, October 6 and December 15, 1976. Participants included representatives from the Family Court, the Department of Social Services and Housing, the Office of the Attorney General, the Department of Education, the Children's Mental Health Services Branch of the Departmnet of Health, the Mental Health Association of Hawaii, the Tripler Army Medical Center Child Guidance Clinic, the Hawaii Family Stress Center, the Honolulu Police Department, the Queen Liliuokalani Children's Center, the Advisory Committee to the Children's Protective Services Center, the Office of Children and Youth and a private attorney familiar with child abuse and neglect cases.

FINDINGS

According to the Department of Social Services and Housing, for 1973, 1,034 child abuse and neglect reports were filed and 498 were confirmed. Data for 1974 has been collected, but is still being processed. The average caseload for workers in the Children's Protective Services Program was nearly double what the department thought it should be, i.e., 40 to 50 cases per worker instead of a maximum of 25 recommended by the Department of Health, Education and Welfare, Office of Child Development.

Your Committee reviewed the progress of the Department of Social Services and Housing in implementing the Children's Protective Services Program and determined that inadequate funding and staffing is severely limiting the program's capability to protect children from physical abuse. The program is not able to allocate enough resources and personnel to determine the incidence and distribution of the more complex and time consuming cases involving "mental injury" of children, let alone provide protective services for children suffering mental injury.

Your Committee also found that Hawaii's unique cultural composition contribute directly to public awareness and definition of child abuse. The different cultures from Asia, Oceania and the Western hemisphere have each brought their own unique approaches to child-rearing and discipline. In some instances, culturally different but traditional child discipline practices have been viewed as abusive.

Your Committee also found that although there are statutory requirements for reporting suspected instances of child abuse and neglect, public awareness of child abuse is generally limited to physical abuse. In spite of the 1975 amendments specifically designating mental injury, public awareness of non-physical abuse or neglect of children is low. Consequently, few instances of suspected mental injury of children are even reported.

Although a statutory definition of "mental injury" could increase public awareness and decrease the individual citizen's hesitancy to report maltreatment, your Committee notes the difficulty of setting forth by statute those injuries, abnormal behavior patterns, or other indicative signs of mental injury. Unlike burns, cuts of other readily indentifiable

signs of physical maltreatment, mental injury or abuse can easily be ignored or go unnoticed. Even experts disagree as to what constitutes normal behavior for a child at a particular point in life.

Your Committee further believes that misinterpretations increase when experts are confronted with determining what is normal or abnormal for a child who has been raised in one cultural setting and is later moved to another. Your Committee further recognizes that abnormal behavior in children could also be attributed to causes other than abuse, such as congenital or biological irregularities in physical or mental development, peer influence, sociological factors not related to home life or a myriad of other possible variables.

During its final meeting on December 15, 1976, Your Committee agreed that a proposed definition by the Hawaii Family Stress Center deserved consideration and should be proposed for the purpose of public discussion and review by participants from all sectors of the community. Testimony received by the Committee generally favored the use of the proposed definition as the definition of mental injury.

RECOMMENDATIONS

Your Interim Committee recommends that the Department of Social Services and Housing incorporate the following definition into the departmental guidelines relating to children's protective services:

"Psychological Neglect and Abuse: Child rearing procedures or an absence of them, by persons responsible for the child, which results in the gross impairment or likely impairment of a child's opportunity for normal and healthy psychological development which will allow the child to achieve a reasonable degree of positive and independent life adjustment within his or her inherent capabilities and cultural-environmental opportunities."

In selecting this proposed definition, your Committee considered the following:

(1) "Psychological neglect and abuse" is believed to be a more inclusive term than "mental injury" as it would cover the whole range of non-physical maltreatment;

(2) The actual determination of abnormal behavior, and its cause, should be left to competent experts in the medical, child psychology and other related fields;

(3) The rights of parents and others responsible for children, should be protected from undue government infringement along with the protection of individuals from false accusations;

(4) A general definition providing more direction and detail than the term "mental injury," would increase public awareness of non-physical child abuse but should not require an exhaustive listing of specific behavior patterns as proof of non-physical child abuse;

(5) Cultural and environmental differences existing in Hawaii preclude any all-inclusive statutory definition of non-physical child abuse and could be interpreted as discriminatory against particular segments of our community; and

(6) Lack of agreement, even among experts, regarding what is normal behavior for a child at a specific time of life requires needed flexibility for each case to be handled in an appropriate manner.

Although your Committee's investigation of Hawaii's child abuse reporting law concentrated primarily on defining what constitutes mental injury to children, other types of abuse identified in Chapter 350, HRS, also need to be defined. Your Committee recommends that the Department of Social Services and Housing and the Office of the Attorney General, in consultation with other public and private agencies, be requested to develop definitions of undefined types of child abuse identified in Chapter 350, HRS, including: "physical abuse", "sexual abuse", "negligent treatment" and "maltreatment". Your Committee further recommends that such definitions be incorporated into Department of Social Services and Housing guidelines relating to children's protective services. A series of public workshops or seminars should be conducted to disseminate information on the new definitions in order to promote public awareness and reporting of child abuse.

Your Committee notes that its deliberations were hampered by a lack of statistical data, which would have established the incidence and distribution of psychological neglect and abuse cases. Your Committee also notes general agreement regarding the

potential of psychological neglect and abuse of children becoming as serious a problem as physical child abuse is at present. Your Committee believes that child abuse in any form leaves scars which can affect an individual's development and personal outlook for life, particularly in regard to that individual's own child rearing and disciplinary practices.

Your Committee therefore recommends that additional resources be allocated to improving protective services for children in order to increase the levels and types of services that can be provided, and to allow the further investigation and collection of data on incidences and distribution of psychological child abuse and neglect.

Your Committee further recommends that Chapter 350, HRS, be amended to require that medical examiners report suspected instances of child abuse. Although Chapter 350 requires all coroners to report suspected instances of child abuse, some counties utilize the term "medical examiners" rather than "coroner" and these officials are not covered by Chapter 350's reporting requirements. Consequently, your Committee recommends that Chapter 350, HRS, be amended to fill this gap in Hawaii's child abuse reporting law.

Chapter 350 should also be amended to require all police officers to report suspected instances of child abuse. Although police officers do come into direct contact with instances of child abuse, they are not required to report suspected or actual instances of these abuses. This gap in the child abuse reporting law should be filled by statutorily specifying that police officers are subject to Chapter 350's reporting requirements. Multiple reports of suspected instances of child abuse by persons required to report instances of child abuse, including police officers, would only serve to further insure that suspected cases of child abuse are indeed reported.

Your Committee recommends that public hearings on the proposed amendments be held early in the 1977 legislative session, to allow for adequate public discussion and legislative consideration.

Signed by Representatives Takamura, Kunimura and Stanley

Spec. Com. Rep. No. 3

Your Interim Committee on No-fault Insurance for Public Assistance Recipients appointed pursuant to House Resolution 582, HD 1, adopted by the Regular Session of 1976 and directed to review the current provision of motor vehicle insurance for public assistance recipients and to evaluate alternatives to the present system, begs leave to report as follows:

COMMITTEE APPROACH

An interim committee consisting of members from the House Committee on Consumer Protection and Commerce and the House Committee on Public Assistance and Human Services was appointed. Co-chairmen for the interim committee were Representatives Kathleen Stanley and Dennis Yamada. Members of the committee included Representatives Ronald Kondo, Gerald Machida, Herbert Segawa, Ted Yap, Kinau Kamalii and Velma Santos.

The interim committee held three public meetings to obtain information on the present situation of providing no-fault insurance for public assistance recipients. Persons present at all meetings included the motor vehicle insurance commissioner, representatives from the Department of Social Services and Housing, representatives from the insurance industry and a representative of the Welfare Recipients Advisory Council.

At each meeting, the interim committee requested specific information as part of a continuing process of evaluating alternatives to the present system of providing no-fault insurance for public assistance recipients.

BACKGROUND

In 1973, the Hawaii State Legislature enacted the Motor Vehicle Accident Reparations Act which required all licensed drivers in the State to be covered by a motor vehicle insurance policy. Recognizing that there were segments of the population who would not be able to afford motor vehicle insurance or would be unable to obtain such insurance in the free

market, the Legislature also established the Hawaii Joint Underwriting Plan. The HJUP was mandated to "provide no-fault benefits and policies for several categories of persons including high risk drivers, commercial drivers, physically handicapped, public assistance drivers, and the formerly convicted licensed driver.

One of the basic operational theories of the HJUP was that the plan would provide insurance for commercial vehicles who must pay a higher rate of insurance and that the premiums from the commercial vehicles insured under the HJUP would offset the premiums not realized in providing insurance for public assistance recipients. From the experience of the HJUP and the statistics reported by the Motor Vehicle Insurance Commission, it is clear that most commercial vehicles and other high risk drivers have been able to obtain insurance in the free market. Therefore, premiums expected from these sources have not been realized and do not offset the cost of providing insurance for public assistance recipients.

According to the Motor Vehicle Insurance Commissioner, the Hawaii Joint Underwriting Plan is made up of 10,556 vehicles of which 78% are being provided free insurance. The cost of providing the insurance over the period September 1974 to August 1975 was $1.78 million. To make up the deficit in unrealized premiums, the HJUP assesses casualty insurance companies doing business in the State based on their volume of business for the motor vehicle insurance line. Assessments from September 1974 to October 1976 of motor vehicle insurance companies authorized to transact business in the State went as high as $200,000 for one company.

Automobile insurance companies have indicated that continued increases in the assessment by the HJUP may result in increased premiums for the motoring public. According to testimony presented before the interim committee, new premium rates being calculated for 1977 will include the assessed cost of operating the HJUP.

FINDINGS AND RECOMMENDATION

The interim committee reviewed several alternatives to determine the feasibility and the effectiveness of each in resolving the problem of providing insurance for public assistance recipients. These alternatives included:

(1) Establishing an additional allowance to the flat grant payment allowing public assistance recipients to acquire their own motor vehicle insurance;

(2) Instituting a claims service contract, or group insurance approach, for coverage of public assistance recipients;

(3) Retaining the present system and providing for a tax credit or premium tax reduction for those companies participating in the HJUP; and

(4) Discontinue insurance coverage for public assistance recipients.

Providing an additional allowance to the flat grant payment for motor vehicle insurance. One approach to solving the problem of no-fault insurance for public assistance recipients was to include an allowance for insurance under the flat grant payment. In testimony before the interim committee, Department of Social Services and Housing officials noted that increasing the flat grant allowance may create a number of other problems. First, in any increase, the funds provided would not be enough to obtain motor vehicle insurance coverage. Secondly, in using the flat grant payment system, each recipient would receive an allowance for insurance coverage whether or not that recipient owned a car.

The possibility of providing a special needs category for motor vehicle insurance was explored. Department officials felt that such a move would be contrary to the present philosophy of providing a flat payment to public assistance recipients. The department has been moving away from special needs approach in public assistance payments.

Finally, even with an increase in the flat grant allowance for motor vehicle insurance, department officials stated that there is no guarantee that the money will be used for purchasing motor vehicle insurance coverage when there may be other more immediate needs.

Instituting a service claims contract or group insurance approach. Both the Hawaii Insurance Association and the Hawaii Joint Underwriting Plan Board of Governors suggested the establishment of a service claims contract or group insurance approach.

Under the present system, each public assistance recipient has a written premium for motor vehicle insurance coverage. Consequently, a portion of the cost of providing such insurance comes from servicing and administrative expenses. Presently, agents' commissions amount to 12% of the value of issued policies.

A claims service contract approach would require no individual policies and a minimum of administrative costs. The HJUP Board of Governors noted that under such a group plan it may be possible to reduce present costs by 30% and even as much as 50%.

Retaining the present system and providing a tax credit or premium tax reduction for those companies participating in the HJUP. In view of the insurance industry's comment that present assessments against them will probably be passed on to the rest of the motoring public through increased premiums, this approach was intended to provide some relief to insurance companies participating in the HJUP.

Under a tax credit approach, the insurance companies would be given a credit equal to the amount of that portion of their assessment which supports motor vehicle insurance for public assistance recipients.

The other possibility is to reduce the premium tax on the motor vehicle insurance line equal to the amount of assessment which provides insurance for public assistance recipients.

Estimates of the revenue loss on the tax credit approach would equal the present deficit of the HJUP. According to the insurance commissioner, the loss would be approximately $1.8 million. It can also be assumed that the loss of revenue if the premium tax were reduced by the amount of assessment would also amount to $1.8.

Discontinuing insurance coverage for public assistance recipients. It was also suggested that free insurance coverage for public assistance recipients be discontinued and they be required to obtain motor vehicle insurance on their own. Much of the committee's discussion of this alternative centered on the philosophy of no-fault insurance and its intent.

No-fault insurance came out of a legislative concern for an efficient insurance benefit system and in recognition of the mounting costs of delayed settlements, court action and determination of fault. Consequently, in making it mandatory for persons to carry motor vehicle insurance, the legislature guaranteed all injured parties in motor vehicle accidents to receive some compensation. At the same time, the Legislature also recognized that certain categories of drivers who could not obtain insurance in the free market would have to be provided an opportunity to obtain the required coverage. Public assistance recipients were among this group of drivers. To remove provision for insurance coverage of public assistance recipients may result in large numbers of persons not having motor vehicle insurance coverage.

In the process of studying the problem of providing no-fault insurance to public assistance recipients, the interim committee attempted to review each alternative thoroughly. Particular attention was paid to the ramifications of the suggested solutions. As a result, the interim committee recommends that the appropriate committees of the House of Representatives, Ninth State Legislature, review the interim committee's findings, explore other available alternatives, and take action to resolve the issue of providing motor vehicle insurance for public assistance recipients.

Signed by Representatives Stanley and D. Yamada.

Spec. Com. Rep. No. 4

Your Interim Committee appointed pursuant to House Resolution No. 225, adopted by the Regular Session of 1976 and directed to "formulate a timetable for the orderly development of a Kakaako waterfront park to be submitted to the Ninth Legislature" begs leave to report as follows:

I. COMMITTEE APPROACH

Your Interim Committee was co-chaired by Representatives Russell Blair and Richard Kawakami and membership included Representatives Clarence Akizaki, Daniel Kihano, Ken Kiyabu, Ted Morioka, Hiram Fong Jr., and Jack Larsen. State Senators Jean King and Anson Chong also participated in meetings of your Interim Committee.

The Interim Committee solicited base information and testimony and met on October 15, 1976 and January 17, 1977 with government agencies and private owners and lessees having an interest in property makai of Ala Moana Boulevard, bound by Pier 2, Ala Moana Park, and the Pacific Ocean. (See Figure 1)

The agencies and owners which were requested to present their positions included: The United States Immigration and Naturalization Service; the United States Army Engineer Division, Pacific Ocean; the Department of Land and Natural Resources; the Department of General Planning of the City and County of Honolulu; the Department of Planning and Economic Development; the Department of Land Utilization of the City and County of Honolulu; the Department of Public Works of the City and County of Honolulu; the Department of Parks and Recreation of the City and County of Honolulu; the Department of Transportation; the Bishop Estate; the Pacific Biomedical Research Center; and the Look Laboratory.

Subsequent to the receipt of written and oral testimony, follow up letters were sent to further clarify the positions and views expressed by the various participants.

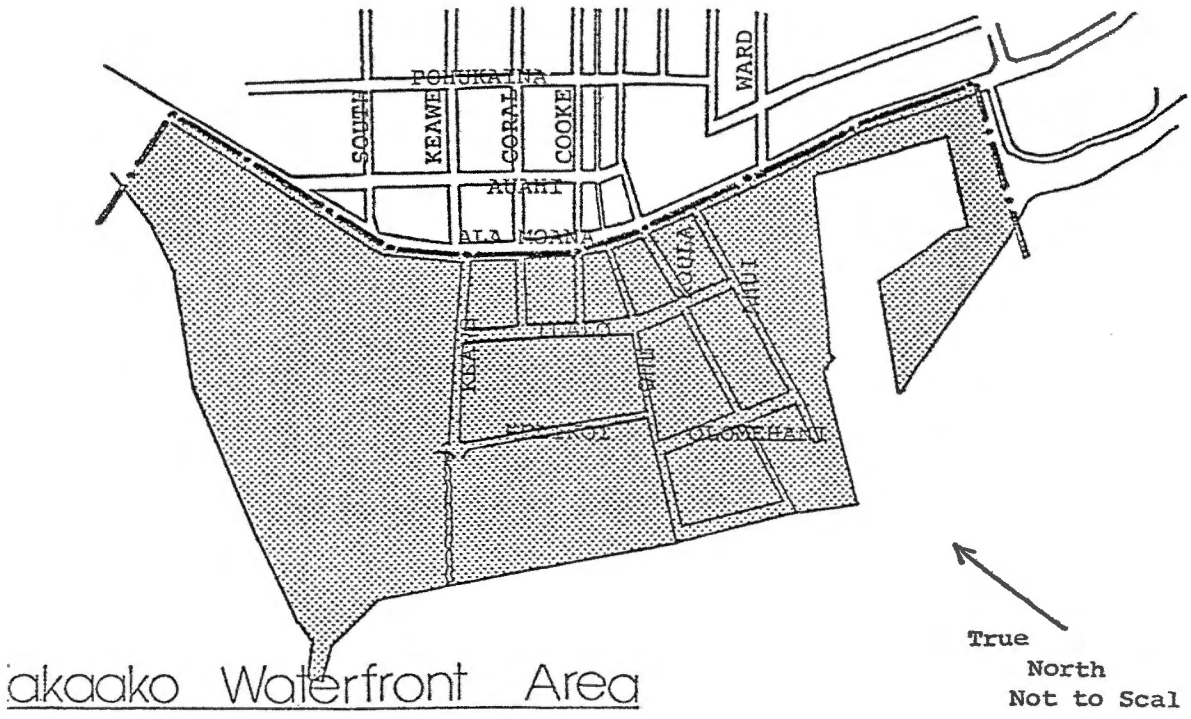


Figure 1 - STUDY AREA

II. BACKGROUND

Attributable in part to its proximity within the State's major urban center, the Kakaako area has become one of the more desired areas for future urban growth and has been the subject of planning studies by both the private and public sectors. The findings of these studies have generally stated that the Kakaako area could potentially serve a variety of land uses, such as providing for housing, light industry, office and commercial space and recreational needs.

In relation to the latter, the Kakaako Urban Design Demonstration Study by the Department of Planning and Economic Development states that there is a significant deficiency in park space in central Honolulu, with a 1970 total shortage of 1542 acres of park space. The report further states that the existing level of population is substantially higher than what it was in 1970. A report by the City Department of General Planning entitled

"Alternatives for Kakaako", May 1976, states that:

> "The service area for beach parks extends over a larger area than Kakaako per se. The Honolulu area, from Diamond Head to Kapalama, has a population of approximately 302,607 people. This population is served by six beach parks totalling 171.5 acres, providing approximately .57 acres per 1,000 people, compared to an existing 1.63 acres per 1,000 people for the entire island."

In addition, the future renewal and development of the Kakaako area may result in a more intensive demand for recreational facilities.

The DPED study states that various agencies and groups have endorsed the development of the waterfront park, including the Department of Land and Natural Resources, the City Parks and Recreation Department, the Mayor, the Oahu Development Conference, the State's Multimodal Task Force, and the American Institute of Architects' R/UDAT Task Force. However, there has been little agreement in the size, location and type of park that should be developed.

In 1975, the State Legislature appropriated $1,000,000 through Sec- 91-4N2101 of Act 195, for the development of the Kakaako Waterfront Park. According to the DPED, $400,000 of these funds have been released and used to replenish sand at Ala Moana Park. A balance of $600,000 remains un-allotted. The 1975 Legislature further adopted H.R. 475, H.D. 1 which requested the State Department of Land and Natural Resources to submit a master plan for the long-range use of the Kakaako shoreline lands to the Legislature and further requested the Governor to institute a moratorium on the leasing of state lands in this area.

In 1976, the Legislature adopted H.R. 225 and established a House Interim Committee to institute a timetable for the orderly development of the Kakaako Waterfront Park.

III. FINDINGS AND RECOMMENDATIONS

Your Committee finds that in the formulation of a development timetable, several factors and considerations required identification:

A. Existing Land Use Activities. The area primarily supports industrial activities including the food distribution center, Matson cargo facilities, and a municipal incinerator and vehicle maintenance yards. The University of Hawaii's marine research center and the U.S. Bureau of Commercial Fisheries are also situated within the area. (See Figure 2)

B. Land Ownership. A major portion of the lands is owned by the State, much of which is leased for industrial purposes. Other parcels are owned by the federal government and the Bishop Estate. (See Figure 3)

C. Public Lands Lease Expirations: Much of the area is held by the City and County of Honolulu in perpetual lease. At the present, the City has located its vehicle maintenance and storage yards and the incinerator on these properties.

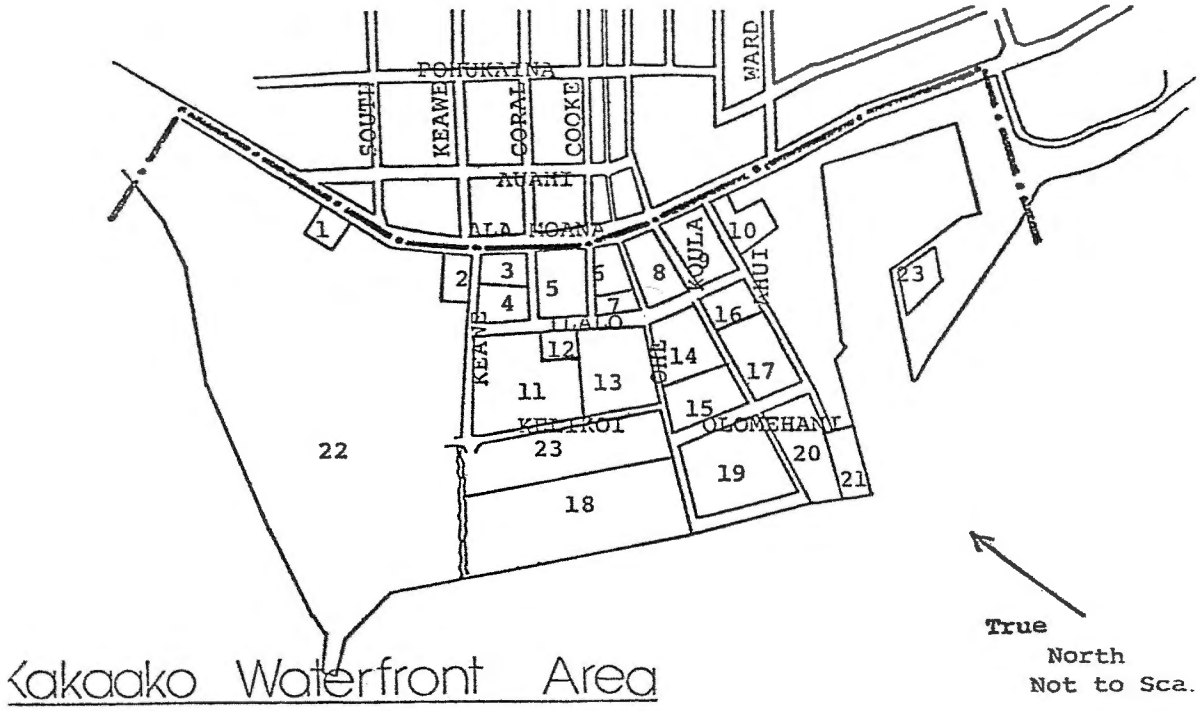
A major waterfront parcel owned by the State of Hawaii, comprising approximately 21 acres, bound by Kelikoi and Ohe Streets and the Pacific Ocean, is leased on a monthly revocable basis.

The University of Hawaii, leases the parcel bound by Olomehani, Koula, and partially by Ahui Streets. Its lease expires in the year 2030.

In the Kewalo Basin area, much of the State lands are leased for commercial fishing. The Fisherman's Wharf, the tuna cannery, McWayne Marine Supply, are also situated in this area. In addition, the U.S. Bureau of Commercial Fisheries leases lands at the peninsula. (See Figure 4)

D. Proposed Kakaako Waterfront Alternatives. Based on presentations and correspondence from the lessees and land owners, several assumptions have been made and were utilized in evaluating the proposed alternatives for the study area:

1. The container area and dock facilities currently utilized by Matson will be used to house the Foreign Trade Zone facilities. However, a narrow strip of shore land makai of the properties could be used to provide additional park area and a visual link to the Sand Island Park facilities.



1. U.S. Immigration Station (Historic)
2. Sewer Pumping Station (Historic)
3. Gold Bond Building
4. Hawaiian Telephone
5. Honolulu Ford
6. Miscellaneous Light Industrial
7. Residential
8. Miscellaneous Light Industrial
9. Truck Maintenance
10. Air Force Exchange Building
11. Honolulu Food Distribution Center
12. Plant Quarantine Station
13. Y. Hata
14. Miscellaneous Light Industrial
15. Incinerator
16. Board of Water Supply
17. Miscellaneous Light Industrial
18. Vacant
19. Miscellaneous Light Industrial
20. Look Laboratory
21. Pacific Biomedical Research Center
22. Matson Container Facilities
23. U.S. Bureau of Commercial Fisheries

Figure 2 - EXISTING LAND USE ACTIVITIES

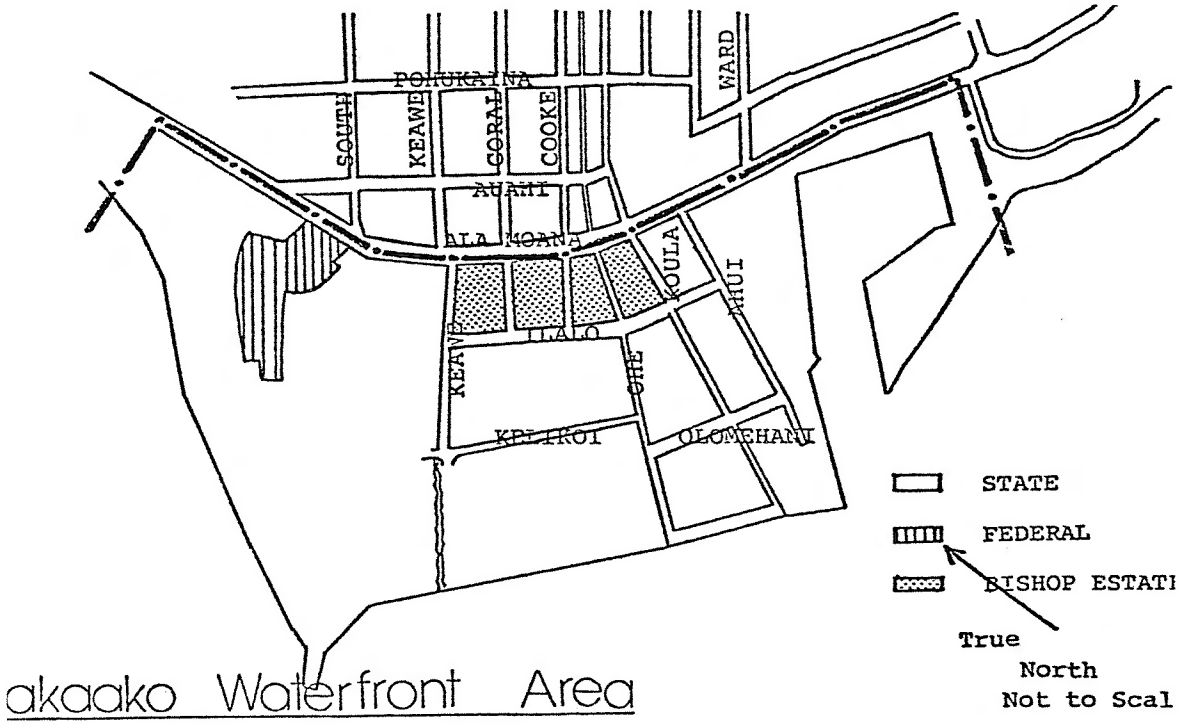


Figure 3 - LAND OWNERSHIP

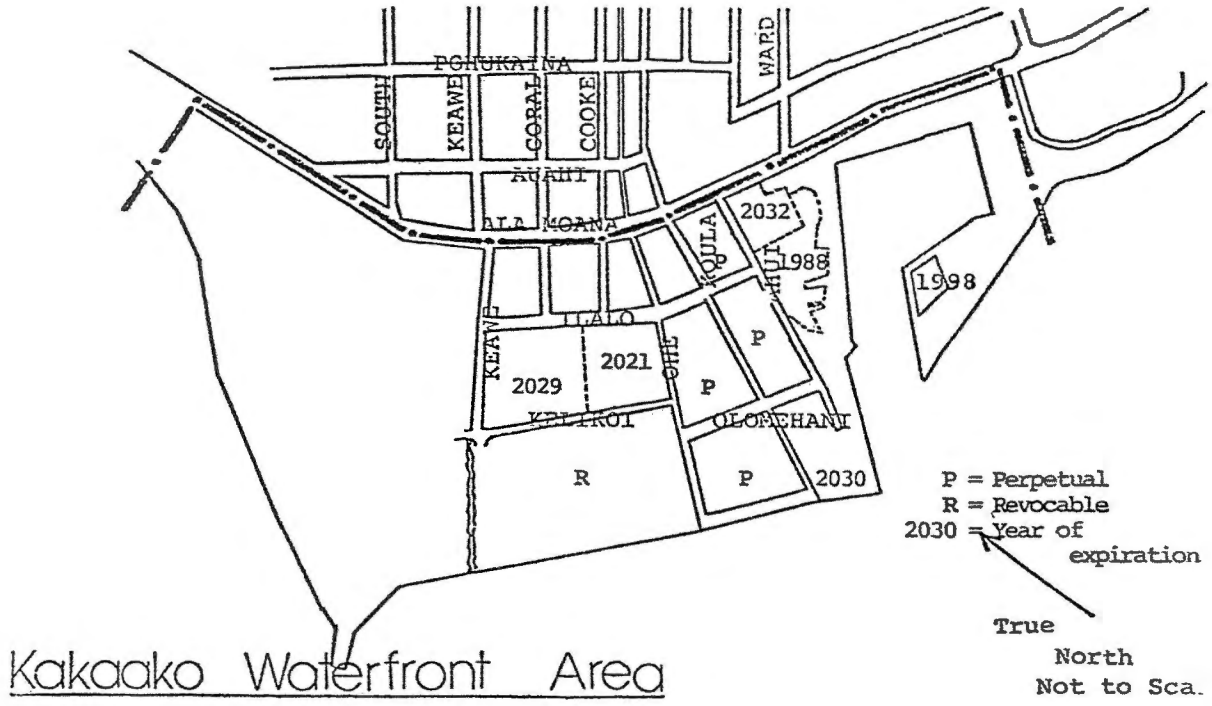


Figure 4 - PUBLIC LANDS LEASE EXPIRATIONS

2. Since the City proposes to move their facilities to the Halawa area, the parcels held in perpetuity by the City and County of Honolulu may be available for park use as early as 1983.

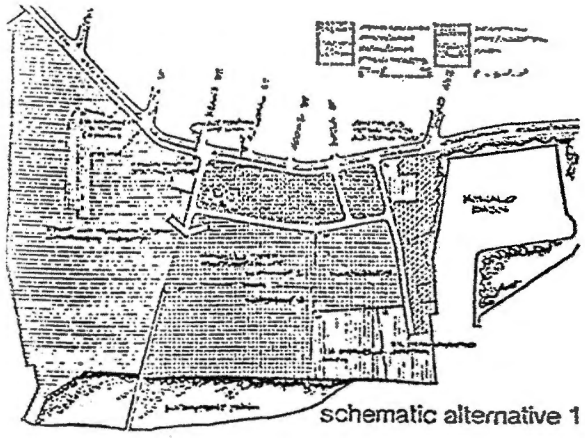
3. The parcel housing the food distribution center and related private facilities will be continued to be used for these purposes in the distant future and will not be expanded. Growing spatial requirements may, however, necessitate the relocation of these facilities to another site.

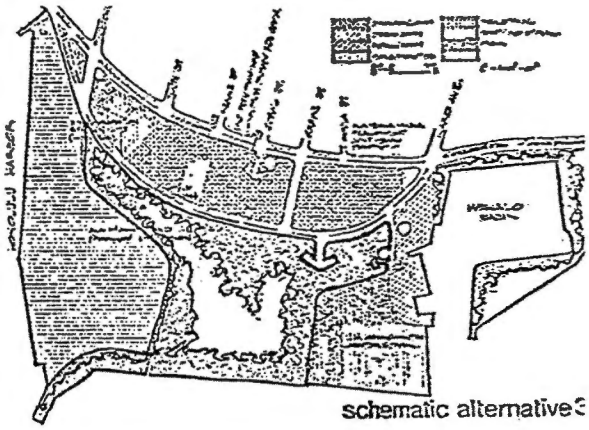
4. At the present, Bishop Estate plans to develop three of their four blocks into offices and high density apartments. The block bound by Ala Moana Boulevard, Koula, Ilalo and Ohe Streets is planned for park use. However, the dedication of this parcel for public use has not as yet been explored.

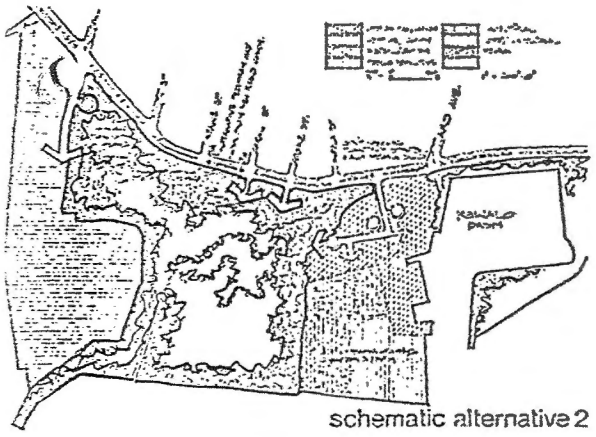
5. In general, the Kewalo Basin complex will be continued in present uses. The possibility exists of the re-location of these facilities due to expansionary needs or the cessation of the financial feasibility of these activities. The makai area of the peninsula is vacant and could be incorporated as a part of the park, thus visually linking the Ala Moana Park to the Kakaako Park.

6. The University of Hawaii's oceanographic facilities on the parcel bound by Olomehani, Koula, and partially by Ahui Streets and the Pacific Ocean will be continued in this use but can be incorporated as a part of the park in a campus-like atmosphere. (Separation of the facilities from the park may be achieved through proper landscaping.)

In view of these assumptions and testimony presented before your Interim Committee, we have examined four alternative proposals for the waterfront area as presented in the DPED "Kakaako Urban Design Demonstration Study." (See Figure 5)







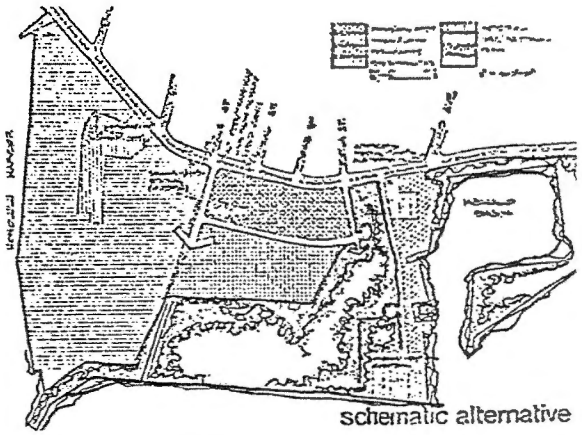


Figure 5 - KAKAAKO WATERFRONT PARK ALTERNATIVES

In evaluating the four alternatives, your Committee has attempted to maximize the amount of developable park area, minimize detrimental impacts on existing activities in the area and provide for an economical and coordinated transition to park use.

In this regard, schematic alternative 1 has been deemed as inappropriate as it assumes that the Food Distribution Center will expand into lands which could be used for park space. This contradicts the previously mentioned assumptions and findings of your Committee.

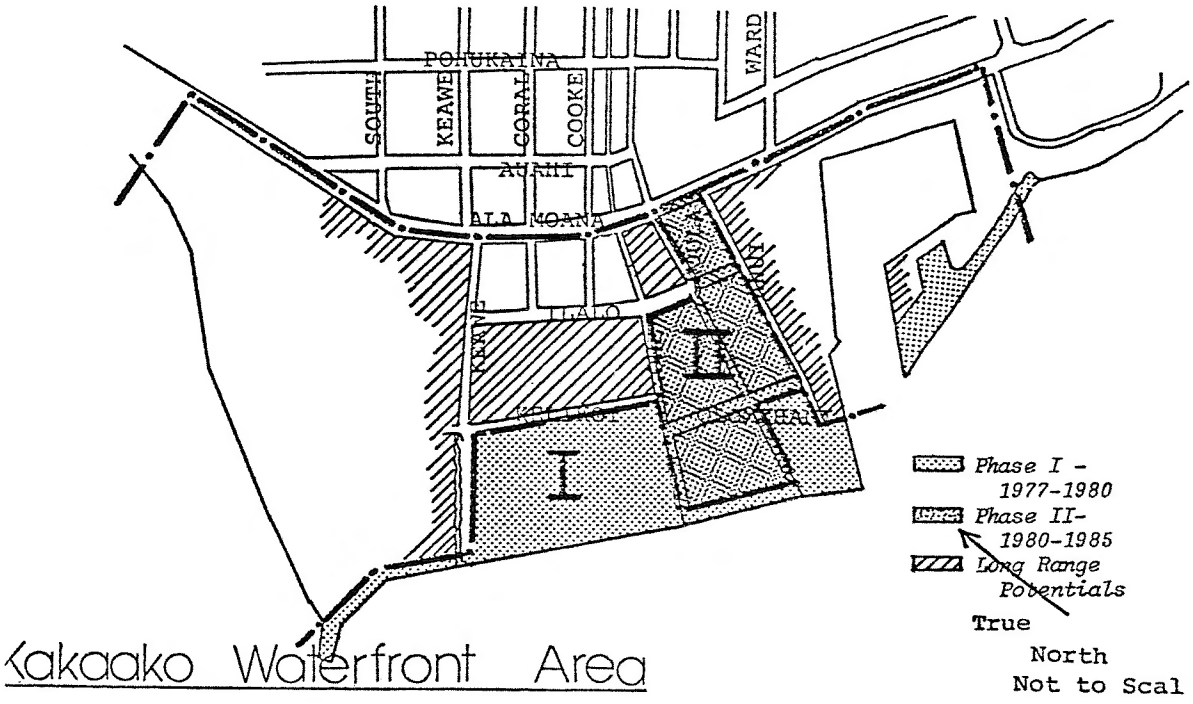
Schematic alternative 2 has also been rejected due to its inclusion of state and private lands presently needed for existing activities in the area. This proposal would necessitate the re-location of the Food Distribution Center, the industrial and commercial activities housed on the Bishop Estate parcels and thus implies long-range and highly costly expenditures.

Schematic alternative 3 would also necessitate the relocation of the Food Distribution Center, as well as the re-alignment of Ala Moana Boulevard and was not considered as highly desirable.

In view of these findings and previous assumptions, your Committee has selected a development scheme similar to alternative 4. Your Committee feels that this proposal can be most readily implemented and has sufficient flexibility to provide for the continuance of existing activities. Additional lands such as the Bishop Estate parcel and Food Distribution Center could be incorporated as a part of the park as they become available. In this regard, your Committee proposes the following park development proposal and schedule. (See Figure 6)

In order to implement this proposal, your Committee further recommends the following:

1. Due to the amount of State lands and facilities involved and the City's perpetual lease of major portions of the area, cooperation between these levels of government is necessary for the successful development of a park.



2. Due to the amount of State lands involved, the Department of Land and Natural Resources should proceed with planning for the area. In addition, the planning elements should reflect the concerns of both the City and State, should include a special focus on the area specified as Phase I in Figure 6 and should also examine the feasibility of developing the immediate shoreline area in an aesthetic manner, while preserving or enhancing existing surf sites. Remaining funds allocated under Sec. 91-4N2101, Act 195, SLH 1975 should be used for the purposes of this study. The results of this study should be presented to the Legislature prior to the 1978 Legislative Session.

3. The State Department of Transportation should relinquish a portion of their lands parallel to and fronting the coastline for park purposes, as generally indicated by Figure 6. The precise boundaries of this parcel should be identified in the detailed planning for the park.

4. The DLNR should suspend the lease of any lands that become available for new activities not in conformance with the concept of the waterfront park proposal.

In conclusion, your Committee feels the above proposals would result in a highly needed recreational facility serving the densely populated region of central Honolulu. It is further recommended that the Legislature vigorously pursue this matter during the Ninth State

Legislative Session and may initially proceed by reviewing your Interim Committee's findings and recommendations.

Signed by Reprsentatives Blair, Kawakami, Kihano, Kiyabu, Morioka, Fong and Larsen