

SB 338

LINDA LINGLE
GOVERNOR



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DEPARTMENT OF HUMAN SERVICES
P. O. Box 339
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February 5, 2009

MEMORANDUM

TO: The Honorable Suzanne Chun Oakland, Chair
Senate Committee on Human Services and Public Housing

FROM: Lillian B. Koller, Director

SUBJECT: **S.B. 338 - RELATING TO TAXATION**

Hearing: Tuesday, February 5, 2009; 1:15 p.m.
Conference Room 016, State Capitol

PURPOSE: The purpose of S.B. 338 is to add a new definition of "totally disabled" or "total disability" to section 235-1 related to income tax law.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) defers this bill to the Department of Taxation for any effect it would have on tax law. DHS would have a concern if this measure was intended to affect programs under chapter 346, HRS.

Thank you for the opportunity to provide comments on this measure.

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JAMES R. AIONA, JR.
LT. GOVERNOR



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SENATE COMMITTEE ON HUMAN SERVICES
TESTIMONY REGARDING SB 338
RELATING TO TAXATION

WRITTEN TESTIMONY ONLY

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: FEBRUARY 5, 2009

TIME: 1:15PM

ROOM: 016

This measure adds the definition for "totally disabled" and "total disability" to Chapter 235, HRS, Hawaii income tax law.

The Department of Taxation (Department) finds this measure is unnecessary because there already exists a similar definition.

Chapter 235, HRS, already has a similar definition of "person totally disabled." There are also five rules regarding this definition found at §18-235-1.11 through §18-235-1.15, Hawaii Administrative Rules.

The purpose of this bill is not provided and it is not clear if the new definition is intended to replace the old definition. If passed as currently drafted, **there would be two different and conflicting definitions** for this concept in Chapter 235.

The Department recommends retaining the current definition and associated rules; or if the intent is to amend current law, amend the existing definition.

This legislation could result in a revenue loss because the definition could be broader than the current definition and lacks the requirement of a physician certification.

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SUBJECT: INCOME, Definition of totally disabled

BILL NUMBER: SB 338

INTRODUCED BY: Slom and 1 Republican

BRIEF SUMMARY: Amends HRS section 235-1 to add a definition of “totally disabled” or “total disability” to mean a physical or mental impairment that substantially limits one or more of the major life activities of that person and that constitutes a substantial permanent or semi-permanent handicap to employment.

EFFECTIVE DATE: Upon approval

STAFF COMMENTS: The proposed measure adds the definition of “totally disabled” or “total disability” to the state income tax law. Under the current definition of “person totally disabled” such disability prevents the person from being engaged in any business or occupation.

Given that there is already a definition of “person totally disabled” in this section of the income tax law, one has to question how this proposed definition interfaces with the current definition and ask whether or not this proposed definition is either in conflict or redundant.

Digested 2/3/09