STAND. COM. REP. NO. 2088

Honolulu, Hawaii

FEB 0.9 2012

RE: S.B. No. 2238

Honorable Shan S. Tsutsui President of the Senate Twenty-Sixth State Legislature Regular Session of 2012 State of Hawaii

Sir:

Your Committee on Economic Development and Technology, to which was referred S.B. No. 2238 entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

begs leave to report as follows:

The purpose and intent of this measure is to repeal Act 155, Session Laws of Hawaii 2010.

Your Committee received testimony in support of this measure from The Chamber of Commerce of Hawaii; Hawaii Alliance of Nonprofit Organizations; Chun, Kerr, Dodd, Beaman & Wong; American Council of Life Insurers; and two individuals. Your Committee received comments on this measure from the Department of Taxation and the Tax Foundation of Hawaii.

Your Committee finds that Act 155, Session Laws of Hawaii 2010, imposes disproportionate penalties for simple tax filing oversight. Act 155 stipulates possible tax-exemption revocation for a taxpayer that neglects to file the annual G-49 form within twelve months of the due date. Numerous testifiers have raised concerns that this policy does not provide sufficient due process, as it is a significant departure from the existing tax law, and will cause confusion among nonprofits in particular in terms of their tax reporting requirements and tax obligations.

Your Committee understands that the Department of Taxation issued a Tax Information Release (TIR) to provide guidance for taxpayers. While the TIR may have mitigated some of the concerns,

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it is an administrative pronouncement only and can be withdrawn at any time, further leading to taxpayer uncertainty.

In addition, the threat of personal liability for responsible persons raises yet another barrier to recruiting qualified volunteer board members for nonprofit organizations, particularly small volunteer organizations.

Your Committee finds that these issues raise serious concerns about the provisions of Act 155, and your Committee is in support of its repeal.

As affirmed by the record of votes of the members of your Committee on Economic Development and Technology that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 2238 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Respectfully submitted on behalf of the members of the Committee on Economic Development and Technology,

CAROL FUKUNAGA Chair

The Senate Twenty-Sixth Legislature State of Hawaiʻi

Record of Votes Committee on Economic Development and Technology EDT

| Bill / Resolution No.:* | Committee Referral: | | Dat | Date: 3/1/2012 | |
|--|---------------------|----------|----------|----------------|--|
| The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: | | | | | |
| The Recommendation is: | | | | | |
| Pass, unamended Pass, with amendments Hold Recommit 2312 2311 2310 2313 | | | | | |
| Members | | Aye 🖊 | Aye (WR) | Nay | Excused |
| FUKUNAGA, Carol (C) | | // | | | |
| WAKAI, Glenn (VC) | | | | | |
| BAKER, Rosalyn H. | | | | | |
| SOLOMON, Malama | | | · | | 10 10 10 10 10 10 10 10 10 10 10 10 10 1 |
| SLOM, Sam | | V | | | |
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| TOTAL | · | 5 | Ø | Ø | Ø |
| Recommendation: Adopted Not Adopted | | | | | |
| Chair's or Designee's Signature: | | | | | |
| Distribution: Original File with Committee Report Clark's Office Drafting Agency Committee File Copy | | | | | |

*Only one measure per Record of Votes