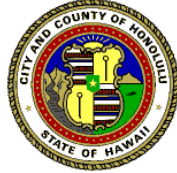


**OFFICE OF THE MAYOR**  
**CITY AND COUNTY OF HONOLULU**  
530 SOUTH KING STREET, ROOM 300 \* HONOLULU, HAWAII 96813  
PHONE: (808) 768-4141 \* FAX: (808) 768-4242 \* INTERNET:  
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KIRK CALDWELL  
MAYOR



EMBER LEE SHINN  
MANAGING DIRECTOR  
GEORGETTE T. DEEMER  
DEPUTY MANAGING DIRECTOR

TESTIMONY OF KIRK CALDWELL, MAYOR  
CITY AND COUNTY OF HONOLULU  
BEFORE THE SENATE COMMITTEE ON WAYS AND MEANS  
AND THE HOUSE COMMITTEE ON FINANCE  
Wednesday, January 15, 2014, 2:30 p.m., Auditorium

TO: The Honorable David Y. Ige, Chair  
and Members of the Committee on Ways and Means

The Honorable Sylvia J. Luke, Chair  
and Members of the Committee on Finance

Aloha and thank you for the opportunity to speak in strong support of the Hawaii Council of Mayors 2014 Legislative Package, which includes the following bills:

Relating to Tort Liability (SB2116 and HB1607); this measure proposes to make permanent, laws that provide the state and county governments with liability protection for public use of certain state or county recreational areas. It amends Act 170, Session Laws of Hawaii (SLH) 2002 (Act 170), as amended by Act 152, SLH 2007, by repealing the June 30, 2014 sunset date. Act 170 provides liability immunity for counties and county lifeguards while providing rescue, resuscitative or other lifeguard services.

Passage of this bill would make our beaches more accessible and safer by allowing the Counties to continue the placement of county lifeguards at State beach parks, without the threat of costly litigation for conditions or events that are outside the Counties' control.

In addition, passage of the measure would allow the public continued access to our ocean and recreational areas while still providing the Counties with protection from liability arising from dangerous natural conditions in these areas.

Relating to GET; the City and County of Honolulu supports SB2115 and HB 1606. This measure requests the authority for the counties to enact up to a 1% surcharge on state General Excise Tax (GET); it proposes to reduce the amount deducted from the county surcharge on state tax from 10% to 2% to reimburse the state for administrative costs; and makes permanent the counties' authority to establish the surcharge on state tax.

For the City and County of Honolulu, our rail financial plan is sound based on the one half percent surcharge enacted in 2006. Therefore, although the City and County of Honolulu joins our neighbor island counties in requesting the 1% surcharge authority, my administration has no intention of enacting an increase in GET surcharge authority at the City and County of Honolulu. We thank the State Legislature and the residents of the City and County of Honolulu for the one half percent authority we are currently collecting.

The chart below identifies the GET surcharge revenues received by the City (on an accrual basis) and the estimated amount retained by the State for collection services.

Fiscal Year	GET Surcharge Payments	Est. Amount Retained
2007	48 million	5.3 million
2008	169 million	18.8 million
2009	161 million	17.9 million
2010	158 million	17.4 million
2011	179 million	19.9 million
2012	191 million	21.2 million
*2013	188 million	18.8 million
<i>*2013 numbers reflect amounts collected up to the 3<sup>rd</sup> quarter.</i>		

Our rail financial plan is based on timely and accurate payments from the State for the one half percent general excise tax (GET) surcharge collected from businesses doing business in the City and County of Honolulu. The enabling law that authorized the City to adopt a GET surcharge specifies that the 10% fee shall be used "to reimburse the State for the costs of the assessment, collection, and disposition of the county surcharge on state tax incurred by the State...the costs of assessment, collection, and disposition...shall include any and all costs, direct or indirect, that are deemed necessary and proper to effectively administer this section..." (HRS §248-2.6(a)(c)).

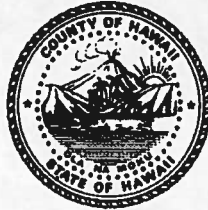
In 2012 and 2013, the fees collected amounted to nearly the entire budget to operate the State Tax Department. As the assessment, collection, and disposition of the county surcharge on state tax is an important, but not the major, function of the State Tax Department, we question whether the percentage retained can be considered "necessary and proper". Reduction from 10% to 2% more accurately reflects the original legislative intent to reimburse the State Tax Department and have the funding used for the rail project.

January 15, 2014  
Page Three

As such, the City & County of Honolulu supports the Hawaii Council of Mayors proposal that requests the authority for the counties to enact up to a 1% surcharge on state General Excise Tax (GET); State's automatic deduction of 10% of the gross proceeds of a county's surcharge on state tax to a deduction of 2% to reimburse the State for costs associated with handling the assessments, collection, and disposition of the county surcharge on state tax.

Mahalo for the opportunity to testify on the bills included in the Hawaii Council of Mayors 2014 legislative package. Should you have any questions or concerns, please feel free to contact me at 768-4141.

**William P. Kenoi**  
*Mayor*



**Walter K.M. Lau**  
*Managing Director*

**Randall M. Kurohara**  
*Deputy Managing Director*

## County of Hawai'i Office of the Mayor

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January 15, 2014

The Honorable David Y. Ige, Chair  
and Members of the Senate  
Committee on Ways and Means  
415 South Beretania Street  
Hawai'i State Capitol  
Honolulu, Hawai'i 96813

The Honorable Sylvia Luke, Chair  
and Members of the House  
Committee on Finance  
415 South Beretania Street  
Hawai'i State Capitol  
Honolulu, Hawai'i 96813

Aloha, Chair Ige, Chair Luke and distinguished members of the Senate Ways and Means and House Finance Committees. Thank you for this opportunity to appear before you to outline our priorities for the Island of Hawai'i for the 2014 legislative session.

We remain cautiously optimistic that the economy is slowly recovering. We are hopeful that the difficult decisions made at both the state and county levels are contributing to the increasingly positive economic trends. However, we recognize that we all have a great deal more work to do to support our communities.

We would like to underscore the importance of a number of state initiatives, and respectfully request that the Legislature support these projects to create jobs, provide relief from traffic congestion, protect public safety, and invest in critical infrastructure. We are prepared to assist our legislators and the state of Hawai'i with these projects in any way possible, and look forward to working with you to implement and expedite the following state initiatives.

## **TRANSPORTATION**

### **Improvements to Highway 130, Kea'au-Pahoa Highway**

We again ask for your support to provide urgently needed traffic relief to thousands of working people who are commuting each day on the Kea'au-Pahoa Highway. This highly congested state highway is the only major route in and out of Lower Puna, and serves one of the fastest growing regions in our state. Last year the state began construction on the first phase of the plan to convert the existing shoulder lane system on the highway into permanent lanes, and design work is underway for the second phase of the shoulder lane project. We appreciate the support the Legislature has already given to this critically needed transportation infrastructure.

We also ask your committees to press ahead with the larger plan to expand more than nine miles of the Kea'au-Pahoa Highway to four lanes. State studies show that four intersections along this highway rank among the most dangerous in the state based on the numbers of serious accidents, and improvements to this thoroughfare are an urgent matter of public safety. A design consultant has been selected for this larger project to increase the capacity of this highway and make it safer, but no firm source of construction funding has yet been identified. Your commitment to provide state funding for this project would protect public safety and significantly improve the quality of life for the residents of Puna.

## **PUBLIC SAFETY**

### **Civil Defense Sirens**

We strongly support the administration's request for an extra \$2.5 million in each of the next two fiscal years to modernize the state civil defense siren system, which is critical to protect public safety. The Legislature has already provided \$16.4 million to begin its statewide modernization effort, and we thank you for that support. Contractors began work around the state in 2013 on the first phases of this project, and work in the County of Hawai'i is expected to begin this spring. This initiative will convert the existing radio-activated siren system to a more reliable satellite- and cellular-based system.

The additional \$5 million for the siren systems over the next two years would be used to add new sirens to better notify the public in the event of an emergency. That would include 36 additional, modern sirens planned for Hawai'i Island, and we urge your committees to continue this effort to protect our communities and expand this important piece of our public safety infrastructure.

## **CHILDREN AND YOUTH**

### **Statewide Juvenile Intake and Assessment Centers**

The Hawai'i Juvenile Justice Working Group last month issued a compelling report that demonstrates the need for alternatives to incarceration for young offenders, particularly for youths who are convicted of misdemeanor offenses. The report noted that each bed at the Hawai'i Youth Correctional Facility on O'ahu costs state taxpayers \$199,320 per year, which underscores the fiscal impacts of incarceration of our youth.

Last year the Office of Youth Services in partnership with the Hawai'i County Office of the Prosecuting Attorney launched the first juvenile intake and assessment center in East Hawai'i with federal funding from the U.S. Office of Juvenile Justice and Delinquency Prevention. This pilot program assesses at-risk youth who have been arrested for minor or status offenses, identifies their needs, and links them and their families with appropriate services. These youths are not a threat to public safety, and diverting them out of the criminal justice system helps to free up our police officers for more important patrol duties, making better use of our public safety resources. Additional federal funding has been awarded to continue this initiative in 2014, and we strongly support the effort by OYS to expand this program to other islands and to Kona.

We also ask the Legislature to support statewide initiatives to increase funding for truancy prevention programs, and to place juvenile parole officers on Neighbor Islands. Current plans call for hiring a juvenile parole officer in East Hawai'i and a second Kona parole officer to supervise and assist youths who have been incarcerated. We need to provide the necessary resources to intervene and divert these youths out of the criminal justice system and into services that will help them to succeed.

## **HIGHER EDUCATION**

### **College of Pharmacy and Health Sciences Building**

We ask for your continued support in building on the successes of the University of Hawai'i at Hilo and our community college system, which have allowed higher education to emerge as an economic engine on Hawai'i Island. The university is now the second largest employer in East Hawai'i, and is preparing our young people for success in our community and across the state. The continued growth of our higher educational system is essential for our economic success and our future.

In 2011 the College of Pharmacy at the University of Hawai'i at Hilo became the first school of pharmacy in Hawai'i and the Pacific Region to become fully accredited by the Accreditation Council for Pharmacy Education. The college is the only school in the state offering a doctorate in pharmacy, and has been an extraordinary success. An economic impact study in 2011 found the college is generating more than \$50 million per year in economic activity statewide, and each dollar of investment in salaries at the college is attracting more than three dollars in spending from outside sources.

The college was granted accreditation before obtaining permanent facilities, and it is time to provide a permanent home for the college to meet its long-range needs and assure it retains accreditation. Providing a permanent home for the college will allow it to fulfill its promise as a center of excellence in education and health sciences. We strongly agree with the request by the administration and the Board of Regents for \$28 million in general obligation and \$5 million in revenue bonds to finance the College of Pharmacy and Health Sciences Building.

## **HEALTH CARE**

### **Primary Care Training and Rural Residency Program**

The state and Hawai'i Island continue to face a severe physician shortage, and projections by the John A. Burns School of Medicine suggest the physician shortage will dramatically worsen in the next five years as many doctors retire. An important piece of the solution for our communities is the Hawai'i Island Family Medicine Residency Program, which was recently notified that it has met the requirements for two-year accreditation. The program is actively recruiting, and will welcome its first class in July. National research shows that 80 percent of residents practice close to the facilities where they train, and we know this program will help ease the physician shortage in our county and in rural areas across the state.

We continue to support efforts by the Hawai'i Health Systems Corporation and our Hawai'i Island delegation to seek a state commitment of \$2.8 million per year for the HHSC primary care training program. This includes the Hawai'i Island Family Medicine Residency program, and will also offer training to advanced practice nurses from programs at University of Hawai'i at Manoa and Hilo, and to students from the UH-Hilo College of Pharmacy. This program will produce inter-disciplinary teams that can care for four times as many patients as independent practitioners, and will expand to serve rural communities on each of the islands. We are convinced this is an innovative and effective strategy for improving access to primary care services.

## **ECONOMIC DEVELOPMENT**

### **Kona International Airport Improvements**

We strongly support the administration's plans for urgently needed improvements for Kona International Airport, and appreciate the decision by the Legislature to appropriate \$37.5 million for an international arrivals building, and \$70 million for a major terminal expansion. We continue to work collaboratively with state Department of Transportation and community organizations to encourage the U.S. Customs and Border Protection to reopen the international arrivals inspection facilities in Kona. State investment in Kona airport infrastructure including the international arrivals building is essential to the success of those efforts.

The Honorable David Y. Ige, Chair  
The Honorable Sylvia Luke, Chair  
Page 5  
January 15, 2014

Your continued support for the Kona airport improvements is important to the state as a whole. Honolulu International Airport operates at its top capacity during busier times of the year, and the administration's planned international arrivals area in West Hawai'i will allow Kona to function as a reliever airport to ease congestion in Honolulu. Investment in Kona airport infrastructure will allow our state to continue to grow as an international visitor destination during the busiest travel seasons.

Each of these state projects represents a smart, long-term investment in the welfare of our communities and the safety and well-being of our residents and visitors. We thank you for your consideration, and look forward to working with all of our distinguished legislators in the weeks ahead as we press forward together with these initiatives.

Mahalo for your support and your commitment to our communities.

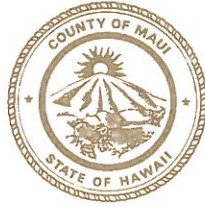
Aloha,

A handwritten signature in black ink, consisting of several loops and a trailing flourish, positioned above the printed name.

William P. Kenoi  
MAYOR



ALAN M. ARAKAWA  
MAYOR



200 South High Street  
Wailuku, Hawai'i 96793-2155  
Telephone (808) 270-7855  
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e-mail: mayors.office@mauicounty.gov

**OFFICE OF THE MAYOR**

Ke'ena O Ka Meia  
COUNTY OF MAUI – Kalana O Maui

**TESTIMONY OF ALAN ARAKAWA, MAYOR  
COUNTY OF MAUI**

BEFORE THE JOINT COMMITTEE OF  
THE SENATE COMMITTEE ON WAYS AND MEANS  
AND  
THE HOUSE COMMITTEE ON FINANCE

Wednesday, January 15, 2014  
2:30 p.m.  
State Capitol Auditorium

RELATING TO INFORMATIONAL BRIEFING (SUB 401)

Honorable David Y. Ige, Chair  
Honorable Michelle N. Kidani, Vice Chair  
Honorable Members of the Senate Committee on Ways and Means

Honorable Sylvia Luke, Chair  
Honorable Scott Y. Nishimoto, Vice Chair  
Honorable Aaron Ling Johanson, Vice Chair  
Honorable Members of the House Finance Committee

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Thank you for this opportunity to testify at this joint hearing of the Senate Ways and Means Committee and the House Finance Committee.

The first thing that I want to say is something that, in general and as a society, I don't think we say or hear often enough. With each legislative session, after all of the meetings and late nights, after all the requests and complaints, and after all the dust has settled, I don't think I say it enough – and that's "Thank you".

As Mayor of Maui County, I want to thank all of you for the much-needed projects either completed or moving forward in Maui County. In 2013, these included the: Opening of the Pu'ukukui Elementary School, the Lahaina by-pass phases 1 & 2, Improvements to Hono'opi'ilani Highway, the dedication of the Daniel K. Inouye Allied Health Center, as well as the Science Building at the University of Hawaii Maui College, Funding for the new high school in Kihei, Improvements to our airport, including the bypass and the transportation parking garage, and funding for improvements and renovations to the hospitals of Maui County.

On behalf of the people of Maui County, we want to especially thank our hard-working Maui County delegation: Senator Gil Kieth-Agaran, Senator J. Kalani English, Senator Roz Baker, House Speaker Joe Souki, Representative Angus McKelvey, Representative Justin Woodson, Representative Mele Carroll, Representative Kaniela Ing, and Representative Kyle Yamashita.

We also wish to recognize Senate President Donna Mercado-Kim, Senator David Ige, and Representative Sylvia Luke, who (along with Speaker Souki) made time to fly to Maui to meet with us.

But, despite all that we are grateful for and have accomplished together, we know that there is no time to rest on our laurels. Our work and responsibilities to our communities are continuous and on-going.

Accordingly, while we will be requesting individual meetings with some of you, I wanted to highlight some the items that we will be asking that you support. May I humbly ask that you support:

**1. The Hawaii Council of Mayors' ("HCOM") package of (2) bills**

I am honored to stand before you today shoulder-to-shoulder with Mayors Bernard P. Carvalho, Jr. of Kaua'i County, Kirk Caldwell, of the City and County of Honolulu, and Billy Kenoi, of Hawai'i County. We, the Hawai'i Council of Mayors come before you speaking as a united voice and look forward to working with each of you towards the common goal of making the State of Hawai'i a better place.

I join my colleagues in asking that you support our proposed bills (a) allowing the counties to establish a surcharge on state tax at rates enumerated in HRS sections 237-8.6 and 238-2.6; and, (b) relating to the counties' tort liability.

In addition to the proposals that the Hawaii Council of Mayors collaboratively support, on behalf of the people of Maui County, I am humbly asking that you support legislation specific to Maui County. Specifically:

**2. Support for at least two added positions to help address agricultural issues.**

The other day, someone said that "if 2013 was the year of the shark, 2014 maybe the year of the ant." As you know, it was recently confirmed that an invasive stinging ant – the little fire ant – has found its way to Maui. Considered among the world's most invasive species, if these ants are not quickly dealt with they can cause harm to our economy, environment, and to human health. They can produce painful stings and large red welts, and can cause blindness in pets.

We need added positions to allow us to responsibly address these ants, in addition to our on-going efforts to deal with miconia, coqui frogs, axis deer, and other related matters.

**3. Support for (proposed) HB 849 relating to Emergency Management.**

In essence, this measure would update HRS 127 (Disaster Relief) and HRS 128 (Disaster and Emergency Act) which were written over 60 years ago and is now outdated. The mayors would become responsible for emergency management in their counties, and establish county emergency management agencies. No additional funding would be needed.

Again, thank you for considering the requests of the Hawai'i Council of Mayors, as well as the requests relating specifically to Maui County.

Testimony of the  
**County of Kaua'i**  
Bernard P. Carvalho, Jr., Mayor  
4444 Rice Street, Suite 235  
Līhu'e, Hawai'i 96766  
Tel: (808) 241-4900; Fax (808) 241-6877

Before a joint hearing of the  
**Senate Ways and Means Committee**  
and  
**House Finance Committee**  
January 15, 2014

Aloha from the Garden Island!

It is a pleasure to join you once again as we move into 2014, with the challenges and opportunities that lie ahead. As I have often said, we are separated by ocean but connected by families and business, and we must always remember that it is our responsibility to work together toward our shared goals.

Even though we take this time every year to connect with our partners at the State Legislature, our work together spans the full twelve months of the year and, through this effort, we see many positive results for the communities and the people we serve.

### **COUNTY OF KAUAI UPDATE**

Allow me to start with a brief snapshot of what's happening on Kaua'i and Ni'ihau.

We are seeing positive signs of continued economic recovery:

- Visitor arrivals were up 3.6% at the end of November over 2012
- Unemployment is down from 6.5% in 2012 to 5.5% in 2013
- Single-family home and condo sales are up 6% and 10% respectively, with median prices in each category up 14% and 4% over 2012
- Film production generated \$4.4 million in revenue on Kaua'i in 2013, versus \$1.3 million in 2012

Our fiscal year 2014 budget is guided by three principles:

1. **Reduce operational expenditures to the greatest degree possible, while maintaining core services.** This past budget cycle we implemented a new approach: basing our projected needs on historical expenditures from the past two years. This resulted in an overall operating budget that was reduced 3.5% from last fiscal year.
2. **Adjust tax rates and fees so that they are in line with present-day realities and state averages.** During this last budget cycle, our discussions with the Council resulted in an increase in the vehicle registration fee, fuel tax, Kaua'i bus fares, planning department

fees and all property rate tax categories except the homestead class. This collective adjustment will glean \$12 million in additional annual revenue once all measures are fully implemented. And the Council is currently considering an increase in the vehicle weight tax and the solid waste tipping fee that could provide an additional \$2.2-\$2.4 million in annual revenue, albeit most likely to be effective in fiscal year 15.

- 3. Limit new initiatives and focus on fixing and repairing our existing parks, roads and facilities, and making county government more user-friendly.** Toward this end we have created an internal parks-public works task force, which allows us to respond more quickly and efficiently to high priority repair and maintenance work. We have inventoried upgrade, repair and maintenance needs at 55 of our park facilities, and are working systematically through that list. Our capital improvements program (CIP) budget has been pared down to only those projects we can move to encumbrance or completion within an 18-month window. So far this year, we have moved \$11.4 million in CIP projects through procurement, and we expect that amount to increase to \$21.5 million by the end of June. We continue to move toward a “paperless” environment, and delivering services directly to residents via technology in their homes and offices. In our latest effort, plans may now be submitted to the building division electronically, and they are reviewed and tracked simultaneously by all agencies. Commercial applicants’ waiting time for approvals has been reduced by 70% when they choose to use electronic review.

And yet, there are still challenges. Particularly when it comes to fixed cost increases such as payroll. As we all know, new collective bargaining agreements were negotiated with all of our public worker unions this year. For the County of Kaua’i, the agreements come with an additional \$3.7 million in cost for this fiscal year, and a cumulative additional total of \$8.6 million for fiscal year 2015. So even after taking measures to raise tax rates and a number of fees, we still face a significant gap between revenues and operating costs.

One final note on this Kaua’i overview: this summer we conducted an informal poll at the Kaua’i County Farm Fair, asking residents what they felt was the biggest challenge facing Kaua’i. Nearly 700 responses were tabulated, representing all age groups and all geographic areas of Kaua’i. The number one issue by far was “traffic” – which is a shared responsibility between the State and County. For the County’s part, I mentioned earlier that we are focusing on road maintenance as a core function. We are also actively seeking ways to expand the reach of the Kaua’i Bus. I’m extremely proud to report that since 2008 when I took office, annual ridership on our public bus service has **doubled** to more than 850,000 trips per year. We will continue to work with the State Department of Transportation as it moves its highway improvement projects forward on the Garden Island so that as a team we can address the acute challenge of traffic congestion.

## **STATE PARTNERSHIPS**

In my view, partnerships are the most valuable tool we have when it comes to addressing the needs of our residents. On Kaua'i, we have successfully partnered on numerous projects with federal and state agencies, non-profits organization, businesses and community groups.

At this time I wanted to highlight just a few of the very successful partnerships between the state and the County of Kaua'i.

Last year, I mentioned that we were having challenges with multi-agency emergency responses occurring on State land such as Kokee and Kalalau. I'm happy to report that we have had a number of meetings on this issue, along with the opportunity to improve our collaboration in a number of actual incidents – mostly weather-related which required the closure of the Hanakāpī'ai trail. There are much clearer lines of communication now among our agencies and with the public at large. I would like to thank William Aila and his team at the Department of Land and Natural Resources for their support and hard work on this effort.

We continue to work with the State at Hanalei/Black Pot Beach Park. Most recently, an effort spearheaded by the Rotary Club of Hanalei Bay – and supported by both the State and the County – resulted in the amazing reconstruction of the Hanalei pier canopy. The pier was built in 1892, and is one of the most photographed places on the planet. The canopy was unsafe, so the Rotary Club stepped forward and raised the \$170,000 needed for the restoration. The project was completed last June. This year, we will start the master planning process for the expanded park facility, in partnership with the community and the State.

Ocean safety is of vital importance to all of us. While Kaua'i has much success over the years in drowning prevention, 2013 was a particularly tough year for us. Despite monumental efforts over the past two decades to build an ocean safety public-private partnership that rivals any in the world, Kaua'i still experienced 17 drownings in 2013. Our efforts to prevent these tragedies will never cease, and the discussions are ongoing as we speak. One critical component of this effort is for us to continue to provide lifeguard services on both state and county beaches. You can help us with that, as I'll point out in just a moment.

In short, partnerships save money, stretch resources, build trust, strengthen relationships, enhance community pride and save lives. We will continue to look for ways to partner with the State and others in each and every project that we pursue.

## **LEGISLATIVE REQUESTS - 2014**

Attached you will find the 2014 County of Kaua'i Legislative Package, containing five items for your consideration and action. I would like to touch briefly on three of the five, and then address one additional item that you will be considering this year.

**Tort liability** – As I just mentioned, 2013 was a devastating year for us in terms of drownings. However, it is impossible to fully count what we believe to be hundreds of lives **saved** every year by our lifeguards, ocean safety programs, and “Good Samaritan” rescues on our beaches. Some of Kaua’i’s most dangerous beaches are under State jurisdiction. Current legislation, which is scheduled to sunset at the end of June, allows the County to provide lifeguard services at State beaches such as Kē’ē. Because of the current law, Kaua’i has had lifeguards stationed at Kē’ē since 2008. Between 1970 and 2008, there were eight drownings at Kē’ē Beach. Since 2008, there have been zero drownings at Kē’ē. Furthermore, our lifeguards have rescued 233 swimmers in distress at Kē’ē since 2008, and they have had 84,000 preventive interactions with beachgoers – which have no doubt saved numerous lives. We implore you to lift the sunset date from this measure and make this highly successful effort permanent in the interest of public safety.

**Department of Agriculture pesticide regulation and enforcement** – As we all know, there has been heated discussion on Kaua’i and elsewhere regarding the use of pesticides by large agricultural entities. The Department of Agriculture is doing the best it can with the limited resources at its disposal; however the present effort is not sufficient. We are asking for your support of the Governor’s request to increase the budget of the Department of Agriculture’s pesticide management program, so that necessary positions for inspection and enforcement can be restored.

**Capital improvement projects (\$825,000 general obligation bonds)** – For the past several years, we have avoided presenting funding requests to you. This year, we respectfully come to you with requests for two CIP projects which will provide mutual benefit. First, is the construction of 49 sheltered, ADA-compliant bus stops along State highways and collector roads. As bus ridership increases, it is imperative that we provide adequately for the comfort and safety of our mass transit passengers. The second project is the upgrade of a Communal Hall Facility at the Hanapēpē Veterans Cemetery. The County will be providing 50% matching funds for these two worthy projects.

Aside from the County’s Legislative Package, the Hawai’i Conference of Mayor’s (HCOM) has presented a package of two measures for your consideration. One is the **tort liability bill** mentioned earlier, which is also endorsed by the Hawai’i State Association of Counties (HSAC). The second, is a request to authorize the Counties to levy up to a 1% surcharge on the general excise tax (GET), for purposes specific to that County.

All four Mayors believe the **GET proposal** is essential in generating revenues for critical projects that cannot be accomplished with reliance solely on County-level fees, property taxes and the counties’ current share of the transient accommodations tax. For Kaua’i, there are looming massive investments such as a new landfill site, affordable housing, and needed expansions to the Kaua’i Bus that will require additional revenue sources to address. We appreciate your consideration of this proposal and look forward to dialogue on this in the coming months.

## **CONCLUSION**

In closing, I want to express how much we value the positive and collaborative working relationship we enjoy with our State partners.

We continue to face big challenges with limited resources, however, our past experience bodes well for our ability to work through them in the best interest of the people we serve.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Bernard Carvalho, Jr.", written in a cursive style.

Bernard P. Carvalho, Jr.  
Mayor, County of Kaua'i

**COUNTY COUNCIL**

Jay Furfaro, Chair  
Tim Bynum  
Gary L. Hooser  
Ross Kagawa  
Mel Rapozo  
JoAnn A. Yukimura



**OFFICE OF THE COUNTY CLERK**

Ricky Watanabe, County Clerk  
Jade K. Fountain-Tanigawa, Deputy County Clerk

Telephone (808) 241-4188  
Fax (808) 241-6349  
Email [cokcouncil@kauai.gov](mailto:cokcouncil@kauai.gov)

**Council Services Division**  
4396 Rice Street, Suite 209  
Lihu'e, Kauai, Hawaii 96766

November 13, 2013

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

The Honorable Joseph M. Souki  
Speaker of the House, Hawai'i State Legislature  
Hawai'i State Capitol, Room 431  
415 South Beretania Street  
Honolulu, Hawai'i 96813

Dear Senate President Kim and Speaker Souki:

**SUBJECT: 2014 KAUA'I COUNTY LEGISLATIVE PACKAGE**

Transmitted herewith for your consideration are the following proposals to be included in the 2014 Kaua'i County Legislative Package:

1. A BILL FOR AN ACT RELATING TO ENERGY RESOURCES
2. A BILL FOR AN ACT RELATING TO LIABILITY
3. A BILL FOR AN ACT RELATING TO A CONTRACT BETWEEN COUNTY OF KAUA'I AND KAUA'I HUMANE SOCIETY
4. A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE REGULATION OF RESTRICTED USE PESTICIDES
5. A BILL FOR AN ACT RELATING TO CAPITAL IMPROVEMENT PROJECTS FOR THE BENEFIT OF THE EIGHTH SENATORIAL DISTRICT

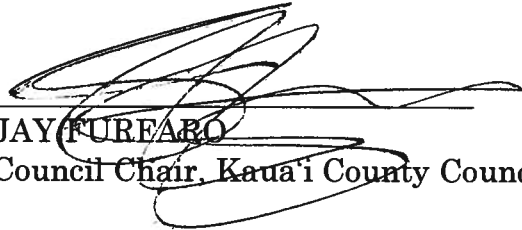
The Kaua'i County Council and Mayor Bernard P. Carvalho, Jr. recognizes the importance of these proposals and are willing to discuss them with you further.




Senate President Donna Mercado Kim  
Speaker of the House Joseph M. Souki  
RE: 2014 Kaua'i County Legislative Package  
November 13, 2013  
Page 2

Thank you very much for your assistance with this matter, and we look forward to working collaboratively with the State Legislature during the upcoming legislative session. Should you have any questions, please feel free to contact the Office of the County Clerk, County of Kaua'i at (808) 241-4188.

Sincerely,



JAY FUREARO  
Council Chair, Kaua'i County Council



BERNARD P. CARVALHO, JR.  
Mayor, County of Kaua'i

AB:mn  
Attachment

## JUSTIFICATION SHEET

PROPOSER: County of Kaua'i

TITLE: Relating to Energy Resources

PURPOSE: To amend the State law (Act 204) that requires solar water heating on all new single-family and duplex homes. The amendment would require that the buyer-owner of a new single-family or duplex home be the applicant for the variance allowing on-demand gas in lieu of a solar water heater; otherwise, a solar water heater will be required. This is a consumer protection measure as well as an energy efficiency and conservation measure.

MEANS: Amend Section 196-6.5, Hawai'i Revised Statutes

JUSTIFICATION: Amendments are necessary to fulfill the intention of the Legislature, as expressed in Act 155, the Clean Energy Initiative, that variances to the requirement of a solar water heater would be "rarely" granted and that the "gas variance" would be considered only if requested by the buyer-owner of a new home who would be ultimately responsible for energy consumption costs. Where there is no buyer occupant at the time of building, the "gas variance" shall not be available. Other variances, however, will remain. For example, if a home is being built where there is little sun and the applicant can show that a solar water heater is not feasible, it will not be required.

\_\_\_\_.B. NO.\_\_\_\_

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# A BILL FOR AN ACT

RELATING TO ENERGY RESOURCES.

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

1           SECTION 1. Purpose and Findings. The legislature finds that  
2 independence from fossil fuels is critical for the security and wellbeing of Hawaii's  
3 residents and for the sustainability and vitality of Hawaii's economy. Rising oil  
4 costs and increased dependence on foreign oil continue to place Hawaii's families  
5 and businesses in a vulnerable position. Continued consumption of fossil fuel will  
6 also worsen global warming, which in turn could mean increasing frequency and  
7 intensity of storms and rising sea levels in Hawaii. This will cause significant and  
8 costly impacts to our island communities as well as to the larger world.

9           The legislature finds that the installation of solar water heaters on new  
10 single-family and duplex homes is one of the most cost-effective and efficient ways  
11 of moving Hawaii's families off of fossil fuels. A conventional electric water tank  
12 accounts for thirty to thirty-five percent of a household's electric bill. It is estimated  
13 that by relying on the sun for ninety percent of its hot water demand, a family could  
14 save enough money to pay for the solar system in three to five years. After the  
15 system is paid off, the heating of water is essentially free. In addition to federal tax

1 credits, when the cost of a solar water heater is included in the cost of a mortgage  
2 there could also be the added value of tax deductions.

3 For the reasons above, the legislature in 2008 passed Act 204 requiring solar  
4 water heaters on new single-family homes. However the legislature finds that  
5 Act 204 allows variances from this requirement under vague and unjustified  
6 circumstances such that the purpose of Act 204 is being thwarted in many instances  
7 by the variance that allows tankless gas. Therefore, the legislature finds it is  
8 necessary to modify the wording of the law and clarify that the variance allowing  
9 tankless gas shall require application by an ultimate occupant of the dwelling unit  
10 and only such occupant. If the occupant is not available, then the variance  
11 application shall not be accepted for processing and said variance shall not be  
12 available.

13 SECTION 2. Section 196-6.5, Hawaii Revised Statutes, is amended to read  
14 as follows:

15 **“§196-6.5 Solar water heater system required for new single-family**  
16 **residential construction.**

17 (a) On or after January 1, 2010, no building permit shall be issued for a  
18 new single-family or duplex dwelling that does not include a solar water heater  
19 system that meets the standards established pursuant to section 269-44, unless the  
20 coordinator approves a variance.

1           (b) ~~[A variance application]~~ Applications for the following variances shall  
2 only be accepted if submitted by an architect or mechanical engineer licensed under  
3 chapter 464, who attests that:

- 4           (1) Installation is impracticable due to poor solar resource;
- 5           (2) Installation is cost-prohibitive based upon a life cycle cost-  
6 benefit analysis that incorporates the average residential utility  
7 bill and the cost of the new solar water heater system with a life  
8 cycle that does not exceed fifteen years; or
- 9           (3) A renewable energy technology system, as defined in section  
10 235-12.5, is substituted for use as the primary energy source for  
11 heating water; ~~[or]~~

12           (c) Applications for the following gas variance shall be accepted on the  
13 following basis only if the variance applicant is the party who will ultimately control  
14 the energy consumption cost, and as part of the application, the applicant signs an  
15 affidavit that the applicant will be the buyer-owner of the new house and that the  
16 applicant has read a flyer issued by the State of Hawaii Department of Business,  
17 Economic Development and Tourism (DBEDT) showing the life cycle cost  
18 comparisons of a solar water heater and tankless gas water heater of equivalent  
19 capacities.

20           ~~[(4)]~~ (1) A demand water heater device approved by Underwriters  
21 Laboratories, Inc., is installed; provided that at least one other

1 gas appliance is installed in the dwelling. For the purposes of  
2 this paragraph, 'demand water heater' means a gas-tankless  
3 instantaneous water heater that provides hot water only as it is  
4 needed.

5 ~~[(b)]~~ (d) A request for a variance shall be submitted to the coordinator on an  
6 application prescribed by the coordinator and shall include a description of the  
7 location of the property and justification for the approval of a variance using the  
8 criteria established in subsection (a). A variance shall be deemed approved if not  
9 denied within thirty working days after receipt of the variance application. The  
10 coordinator shall publicize:

- 11 (1) All applications for a variance within seven days after receipt of  
12 the variance application; and
- 13 (2) The disposition of all applications for a variance within seven  
14 days of the determination of the variance application.

15 ~~[(e)]~~ (e) The director of business, economic development, and tourism may  
16 adopt rules pursuant to chapter 91 to impose and collect fees to cover the costs of  
17 administering variances under this section. The fees, if any, shall be deposited into  
18 the energy security special fund established under section 201-12.8.

19 ~~[(d)]~~ (f) Nothing in this section shall preclude any county from establishing  
20 procedures and standards required to implement this section.



## JUSTIFICATION SHEET

**PROPOSER:** County of Kaua'i

**TITLE:** RELATING TO LIABILITY.

**PURPOSE:** This proposed Bill amends certain acts to provide continuous liability protection for the State and County Governments regarding the duty to warn the public of dangers on improved public lands and the actions of County Lifeguards.

**MEANS:** Repeals the sunset dates for Act 82, Session Laws of Hawai'i (SLH) 2003, as amended by Act 152, SLH 2007, Section 5, as amended by Act 144, SLH 2008, Section 1, as amended by Act 81, SLH 2009, Section 3; and Act 170, SLH 2002, as amended by Act 152, SLH 2007, Section 4, as amended by Act 81, SLH 2009, Section 2.

**JUSTIFICATION:** Allows the State and Counties to continue posting warning signs at beach parks, and allows the Counties to provide lifeguards at State and County beach parks without the threat of costly litigation for conditions or events that are outside the State's and County's control.



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# A BILL FOR AN ACT

RELATING TO LIABILITY.

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

1 SECTION 1. Act 82, Session Laws of Hawaii 2003, as amended  
2 by Act 152, Session Laws of Hawaii 2007, section 5, as amended  
3 by Act 144, Session Laws of Hawaii 2008, section 1, as amended  
4 by Act 81, Session Laws of Hawaii 2009, section 3, is amended by  
5 amending section 8 to read as follows:

6 "SECTION 8. This Act shall take effect on July 1, 2003[~~7~~  
7 ~~and shall be repealed on June 30, 2014~~]."

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

12 "SECTION 5. This Act shall take effect upon its approval [~~+~~  
13 ~~provided that section 1 of this Act shall be repealed on June~~  
14 ~~30, 2014~~]."

15 SECTION 3. Statutory material to be repealed is bracketed  
16 and stricken.

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

18 INTRODUCED BY: \_\_\_\_\_

## JUSTIFICATION SHEET

**PROPOSER:** County of Kaua'i

**TITLE:** RELATING TO A CONTRACT BETWEEN COUNTY OF KAUAI AND KAUAI HUMANE SOCIETY.

**PURPOSE:** This proposed Bill for an Act repeals Section 143-16 of the Hawai'i Revised Statutes relating to a contract between the County of Kaua'i and Kaua'i Humane Society.

**MEANS:** Repeals Section 143-16, Hawai'i Revised Statutes

**JUSTIFICATION:** Unlike the three (3) other Counties in the State of Hawai'i, the County of Kaua'i is the only County mandated to contract with the Kaua'i Humane Society regarding the seizing and impoundment of unlicensed dogs. Over the years, the scope of work and services has grown substantially, which includes the control of feral cats on Kaua'i. During the month of April 2013, the Council spent countless hours deliberating the immediate needs for the County. After reviewing the Fiscal Year 2014 Annual Operating Budget, the Administration and Council needed to make crucial reductions in all County Departmental Budgets to address the tough financial constraints. Because of the lack of funding, the Kaua'i Humane Society is faced with decreasing operational hours on weekends, which may interfere with Section 143-16 of the Hawai'i Revised Statutes (HRS). To avoid any violation of state statute, the repeal of HRS Section 143-16 is necessary at this time for financial and obligatory reasons. The County will still have an active role in regulating the seizing and impoundment of unlicensed dogs pursuant to HRS Section 143-15.

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# A BILL FOR AN ACT

RELATING TO A CONTRACT BETWEEN COUNTY OF KAUAI AND KAUAI HUMANE SOCIETY.

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

1 SECTION 1. Section 143-16, Hawaii Revised Statutes, is  
2 repealed.

3 [~~"§143-16 Contract between county of Kauai and Kauai~~  
4 ~~Humane Society. Pursuant to the authorization provided in~~  
5 ~~section 143-15 the county council of the county of Kauai shall~~  
6 ~~contract with the Kauai Humane Society, an incorporated~~  
7 ~~nonprofit association organized under the laws of the State for~~  
8 ~~the prevention of cruelty to animals, upon the subject matters~~  
9 ~~contained in section 143-15 and shall appropriate the moneys~~  
10 ~~collected by the director of finance of the county of Kauai~~  
11 ~~under section 143-3 for use by the Kauai Humane Society.~~

12 In addition to the matter contained in section 143-15 the  
13 Kauai Humane Society may expend funds turned over by the county  
14 to construct a dog pound on Kauai; provided that the county  
15 council shall first approve the plans for the construction and  
16 location of the dog pound." ]

17 SECTION 2. This Act shall take effect upon its approval.

18 INTRODUCED BY: \_\_\_\_\_

## JUSTIFICATION SHEET

**PROPOSER:** County of Kaua'i

**TITLE:** A BILL FOR AN ACT MAKING AN APPROPRIATION FOR THE REGULATION OF RESTRICTED USE PESTICIDES

**PURPOSE:** This proposed Bill for an Act appropriates \$555,000 to the Department of Agriculture for the purpose of properly funding the necessary positions needed to administer the Hawai'i Pesticide Law.

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

**JUSTIFICATION:** The Hawai'i Pesticides Law authorizes the Department of Agriculture to regulate the sale and use of pesticides, which provides a regulatory framework and personnel to properly address the concerns raised by the public. In 2010, critical positions that were needed to administer this law were eliminated as a result of the fiscal crisis. The Federal sequestration may have also had an impact on the State's finances at that time. However, many of our citizens continue to have concerns regarding the amount of Restricted Use Pesticides ("RUP") being applied by major seed companies across the State. To properly address the concerns raised by the public, and in the interest of the public's health, safety, and welfare, it is of utmost importance that the appropriate staffing levels are committed and restored to properly regulate RUPs. An appropriation of \$555,000, which includes the cost of fringe, supports an additional three (3) inspector positions for the Department of Agriculture.

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# A BILL FOR AN ACT

MAKING AN APPROPRIATION FOR THE REGULATION OF RESTRICTED USE PESTICIDES.

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

1           SECTION 1.       The legislature finds that many residents of  
2 the State of Hawaii are becoming increasingly concerned about  
3 the regulation of Restricted Use Pesticides ("RUP") and the  
4 amount of RUPs being applied by major seed companies. Currently,  
5 the Hawaii Pesticide Law, Chapter 149A of the Hawaii Revised  
6 Statutes, authorizes the Department of Agriculture to regulate  
7 the sale and use of pesticides, which provides a regulatory  
8 framework and personnel to properly address the concerns raised  
9 by the public.

10           The legislature further finds that in 2010, the State was  
11 faced with a significant reduction in force which resulted in  
12 the elimination of positions that were needed to administer this  
13 law. Additionally, having less personnel made it difficult to  
14 fulfill the necessary requirements of testing RUPs. The  
15 statewide effort to reduce in force was primarily due to the  
16 fiscal crisis the State was in at that time. However, this  
17 created an adverse effect on the overall economy as government  
18 services were significantly reduced.

1 To properly address the concerns raised by the public, and  
2 in the interest of the public's health, safety, and welfare, it  
3 is of utmost importance that the appropriate staffing levels are  
4 committed and restored to properly administer and regulate RUPs,  
5 in accordance with the Hawaii Pesticide Law. An appropriation of  
6 \$555,000, which includes the cost of fringe, supports an  
7 additional three (3) inspector positions for the Department of  
8 Agriculture.

9 SECTION 2. There is appropriated out of the general  
10 revenues of the State of Hawaii the sum of \$555,000, or so much  
11 thereof as may be necessary for fiscal year 2014-2015, to carry  
12 out the purposes of this Act, including the hiring of necessary  
13 staff.

14 The sum appropriated shall be expended by the Department of  
15 Agriculture.

16 SECTION 3. This Act shall take effect upon its  
17 approval.

18 INTRODUCED BY: \_\_\_\_\_

## JUSTIFICATION SHEET

**PROPOSER:** County of Kaua'i

**TITLE:** RELATING TO CAPITAL IMPROVEMENT PROJECTS FOR THE BENEFIT OF THE EIGHTH SENATORIAL DISTRICT.

**PURPOSE:** This proposed Bill appropriates \$825,000 of general obligation bonds for the purpose of constructing sheltered bus stops and upgrading the Veterans Cemetery on Kaua'i.

**MEANS:** Issues general obligation bonds in the amount of \$825,000 for the eighth senatorial district.

**JUSTIFICATION:** The County of Kaua'i is seeking additional funding for two (2) Capital Improvement Projects (CIP) beginning Fiscal Year 2014-2015. Of the \$825,000, \$600,000 will be allocated for the construction of approximately forty-six (46) sheltered bus stops along State highways and collector roads through a 50/50 State and County funding match. This project will include the construction of larger pads to accommodate Americans with Disabilities Act (ADA) lift deployment, a protective transit shelter with lighting, trash and recycling receptacles, and a bike rack. The remaining \$225,000 will be allocated for upgrading and improving the Communal Hall Facility at the Veterans Cemetery through a 50/50 State and County funding match. Improvements will also include upgrades to comply with current code requirements and standards.

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# A BILL FOR AN ACT

RELATING TO CAPITAL IMPROVEMENT PROJECTS FOR THE BENEFIT OF THE EIGHTH SENATORIAL DISTRICT.

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

1           SECTION 1.       The director of finance is authorized to  
2 issue general obligation bonds in the sum of \$825,000 or so much  
3 thereof as may be necessary, and the same sum or so much thereof  
4 as may be necessary is appropriated for fiscal year 2014-2015  
5 for the purpose of capital improvement projects for the eighth  
6 senatorial district, as follows:

7           A. Sheltered Bus Stops, Kauai

8           Construction for approximately forty-  
9 six (46) sheltered bus stops along  
10 State highways and collector roads  
11 through a 50/50 State and County  
12 funding match. Construction will  
13 include larger pads to accommodate  
14 Americans with Disabilities Act (ADA)  
15 lift deployment, a protective transit  
16 shelter with lighting, trash and  
17 recycling receptacles, and a bike rack.

18                           Construction                           \$600,000

19                           Total funding   \$600,000



**B. NO.**           

1           B. Veterans Cemetery Improvements, Kauai  
2           Repair and upgrade the Communal Hall  
3           Facility at the Veterans Cemetery  
4           through a 50/50 State and County  
5           funding match, including upgrades to  
6           comply with current code requirements  
7           and standards.

8	Repair and Upgrade	\$225,000
9	Total funding	\$225,000

10          SECTION 2.       The appropriations made for the capital  
11 improvement projects authorized by this Act shall not lapse at  
12 the end of the fiscal year for which the appropriations are  
13 made; provided that all moneys from the appropriation  
14 unencumbered as of June 30, 2017, shall lapse as of that date.

15          SECTION 3.       This Act shall take effect on July 1, 2014.

16  
17                           INTRODUCED BY: \_\_\_\_\_



**2014 Legislative Package  
Hawai'i Council of Mayors**

The Mayors of the four counties hereby agree that the following items will be presented to the Hawai'i State Legislature as the HCOM legislative package for 2014:

1. Tort Liability: Repeal the sunset date for Act 82, Session Laws of Hawai'i (SLH) 2003, as amended by Act 152 SLH 2007, Section 5, as amended by Act 144 SLH 2008, Section 1, as amended by Act 81, SLH 2009, Section; and Act 170 SLH 2002, as amended by Act 152, SLH 2007, Section 4, as amended by Act 81, SLH 2009, Section 2. This measure allows the state and counties to continue posting warning signs at beach parks, and allows counties to provide lifeguards at state and county beach parks without the threat of costly litigation for conditions or events that are outside the state and county's control.
2. General Excise Tax (GET) Request that a GET surcharge of up to 1 percent be authorized for the counties, to be used for purposes to be determined by each county. A percentage of the surcharge may be retained by the state in an amount sufficient to cover the cost of collection. We also advocate for the removal the sunset date for the current surcharge of .5% being utilized by the City and County of Honolulu.

This agreement was confirmed on December 10, 2013:

Mayor Alan Arakawa  
County of Maui

Mayor Kirk Caldwell  
City and County of Honolulu

Mayor Billy Kenoi  
County of Hawai'i

Mayor Bernard P. Carvalho, Jr.  
County of Kaua'i



Mayor William Kenoi  
County of Hawaii  
25 Aupuni Street  
Hilo, Hawaii 96720



Mayor Kirk Caldwell  
City and County of Honolulu  
530 South King Street  
Honolulu, Hawaii 96813



Mayor Bernard Carvalho, Jr.  
County of Kauai  
4444 Rice Street  
Lihue, Hawaii 96766



Mayor Alan Arakawa  
County of Maui  
200 South High Street, 9<sup>th</sup> Floor  
Wailuku, Hawaii 96793

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# A BILL FOR AN ACT

RELATING TO TORT LIABILITY.

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

1           SECTION 1. Act 170, Session Laws of Hawaii 2002, as  
2 amended by section 4 of Act 152, Session Laws of Hawaii 2007, as  
3 amended by section 2 of Act 81, Session Laws of Hawaii 2009, is  
4 amended by amending section 5 to read as follows:

5           "SECTION 5. This Act shall take effect upon its approval[~~+~~  
6 ~~provided that section 1 of this Act shall be repealed on June~~  
7 ~~30, 2014]."~~

8           SECTION 2. Act 82, Session Laws of Hawaii 2003, as amended  
9 by section 5 of Act 152, Session Laws of Hawaii 2007, as amended  
10 by section 3 of Act 81, Session Laws of Hawaii 2009, is amended  
11 by amending section 8 to read as follows:

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

14           SECTION 3. Statutory material to be repealed is bracketed  
15 and stricken.

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

17

INTRODUCED BY: \_\_\_\_\_



H.B. NO.



# H.B. NO.

**Report Title:**

State and County Tort Liability

**Description:**

Deletes the sunset provision for the liability exception for county lifeguards and damages caused by dangerous natural conditions when certain warning signs are posted.

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



**Report Title:**

County Surcharge on State Tax

**Description:**

Allows counties that have not established a County surcharge on State tax to do so and expands the purposes for which the County surcharges on State tax can be used by Counties with populations equal to or less than five hundred thousand. Increases the surcharge rate that a county may set from one-half per cent to one per cent. Reduces the amount deducted by the State for the costs of assessment, collection, and disposition of County surcharges on State tax from ten per cent to two per cent. Makes permanent the County surcharges on State tax.

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# A BILL FOR AN ACT

RELATING TO TAXATION

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

1           SECTION 1. The purpose of this Act is to allow counties  
2 that have not established a County surcharge on State tax to do  
3 so and to expand the purposes for which the County surcharge on  
4 State tax can be used by Counties with populations equal to or  
5 less than five hundred thousand. This Act also increases the  
6 surcharge rate that a County may set from a maximum of one-half  
7 per cent to one per cent, reduces the amount deducted by the  
8 State for the costs of assessment, collection, and disposition  
9 of County surcharges on State tax from ten per cent to two per  
10 cent and makes permanent the County surcharges on State tax.

11           SECTION 2. Section 46-16.8, Hawaii Revised Statutes, is  
12 amended to read as follows:

13           "~~§~~**46-16.8**~~§~~ **County surcharge on state tax.** (a) Each  
14 county may establish a surcharge on state tax at the rates  
15 enumerated in sections 237-8.6 and 238-2.6.

16           (1) A county electing to establish this surcharge shall do  
17           so by ordinance; provided that:





.B. NO.

1           (B) The ordinance shall be adopted prior to December  
2                           31, 2014; and

3           (C) No county surcharge on state tax that may be  
4                           authorized or the rate of which may be changed  
5                           under this section shall be levied prior to  
6                           January 1, 2016.

7           Notice of the public hearing required under  
8                           subparagraph (A) shall be published in a newspaper of  
9                           general circulation within the county at least twice  
10                          within a period of thirty days immediately preceding  
11                          the date of the hearing.

12           (b) A county electing to exercise the authority granted  
13 under [~~this~~] subsection (a)(1) shall notify the director of  
14 taxation within ten days after the county has adopted a  
15 surcharge on state tax ordinance and, beginning no earlier than  
16 January 1, 2007, the director of taxation shall levy, assess,  
17 collect, and otherwise administer the county surcharge on state  
18 tax. A county electing to exercise the authority granted under  
19 subsection (a)(2) shall notify the director of taxation within  
20 ten days after the county has adopted a surcharge on state tax  
21 ordinance or an ordinance to change the rate of its surcharge  
22 and, beginning no earlier than January 1, 2016, the director of

.B. NO.

1 taxation shall levy, assess, collect, and otherwise administer  
2 the county surcharge on state tax.

3       (c) Each county with a population greater than five  
4 hundred thousand that adopts a county surcharge on state tax  
5 ordinance pursuant to subsection (a) shall use the surcharges  
6 received from the State for:

7       (1) Operating or capital costs of a locally preferred  
8             alternative for a mass transit project; and

9       (2) Expenses in complying with the Americans with  
10            Disabilities Act of 1990 with respect to paragraph  
11            (1).

12 The county surcharge on state tax shall not be used to build or  
13 repair public roads or highways, bicycle paths, or support  
14 public transportation systems already in existence prior to July  
15 12, 2005.

16       (d) Each county with a population equal to or less than  
17 five hundred thousand that adopts a county surcharge on state  
18 tax ordinance pursuant to subsection (a) shall use the  
19 surcharges received from the State [~~for~~] as a general fund  
20 realization of the county, to be expended or allotted as  
21 authorized by the council.

.B. NO.

1           ~~[(1) Operating or capital costs of public transportation~~  
2           ~~within each county for public transportation systems,~~  
3           ~~including public roadways or highways, public buses,~~  
4           ~~trains, ferries, pedestrian paths or sidewalks, or~~  
5           ~~bicycle paths; and~~  
6           ~~(2) Expenses in complying with the Americans with~~  
7           ~~Disabilities Act of 1990 with respect to paragraph~~  
8           ~~(1).]~~

9           (e) As used in this section, "capital costs" means  
10 nonrecurring costs required to construct a transit facility or  
11 system, including debt service, costs of land acquisition and  
12 development, acquiring of rights-of-way, planning, design, and  
13 construction, and including equipping and furnishing the  
14 facility or system."

15           SECTION 3. Section 237-8.6, Hawaii Revised Statutes, is  
16 amended by amending subsections (a) and (b) to read as follows:

17           “(a) The county surcharge on state tax, upon the adoption  
18 of county ordinances and in accordance with the requirements of  
19 section 46-16.8, shall be levied, assessed, and collected as  
20 provided in this section on all gross proceeds and gross income  
21 taxable under this chapter. No county shall set the surcharge  
22 on state tax at a rate greater than [~~one-half~~] one per cent of

.B. NO.

1 all gross proceeds and gross income taxable under this chapter.  
2 All provisions of this chapter shall apply to the county  
3 surcharge on state tax. With respect to the surcharge, the  
4 director of taxation shall have all the rights and powers  
5 provided under this chapter. In addition, the director of  
6 taxation shall have the exclusive rights and power to determine  
7 the county or counties in which a person is engaged in business  
8 and, in the case of a person engaged in business in more than  
9 one county, the director shall determine, through apportionment  
10 or other means, that portion of the surcharge on state tax  
11 attributable to business conducted in each county.

12 (b) Each county surcharge on state tax that may be adopted  
13 pursuant to section 46-16.8(a) shall be levied or the rate shall  
14 be changed beginning in the taxable year after the adoption of  
15 the relevant county ordinance; provided that no surcharge on  
16 state tax may be levied prior to January 1, 2007."

17 SECTION 4. Section 238-2.6, Hawaii Revised Statutes, is  
18 amended by amending subsections (a) and (b) to read as follows:

19 "(a) The county surcharge on state tax, upon the adoption  
20 of a county ordinance and in accordance with the requirements of  
21 section 46-16.8, shall be levied, assessed, and collected as  
22 provided in this section on the value of property and services

.B. NO.

1 taxable under this chapter. No county shall set the surcharge  
2 on state tax at a rate greater than [one-half] one per cent of  
3 the value of property taxable under this chapter. All  
4 provisions of this chapter shall apply to the county surcharge  
5 on state tax. With respect to the surcharge, the director shall  
6 have all the rights and powers provided under this chapter. In  
7 addition, the director of taxation shall have the exclusive  
8 rights and power to determine the county or counties in which a  
9 person imports or purchases tangible personal property and, in  
10 the case of a person importing or purchasing tangible property  
11 in more than one county, the director shall determine, through  
12 apportionment or other means, that portion of the surcharge on  
13 state tax attributable to the importation or purchase in each  
14 county.

15       (b) Each county surcharge on state tax that may be adopted  
16 shall be levied or the rate shall be changed beginning in the  
17 taxable year after the adoption of the relevant county  
18 ordinance; provided that no surcharge on state tax may be levied  
19 prior to January 1, 2007."

20       SECTION 5. Section 248-2.6, Hawaii Revised Statutes, is  
21 amended by amending subsection (a) to read as follows:

.B. NO.

1           “(a) If adopted by county ordinance, all county surcharges  
2 on state tax collected by the director of taxation shall be paid  
3 into the state treasury quarterly, within ten working days after  
4 collection, and shall be placed by the director of finance in  
5 special accounts. Out of the revenues generated by county  
6 surcharges on state tax paid into each respective state treasury  
7 special account, the director of finance shall deduct [~~ten~~] two  
8 per cent of the gross proceeds of a respective county's  
9 surcharge on state tax to reimburse the State for the costs of  
10 assessment, collection, and disposition of the county surcharge  
11 on state tax incurred by the State. Amounts retained shall be  
12 general fund realizations of the State.”

13           SECTION 6. Act 247, Session Laws of Hawaii 2005, is  
14 amended by amending section 9 to read as follows:

15           “SECTION 9. This Act shall take effect upon its approval;  
16 provided that:

17           ~~[(1) If none of the counties of the State adopt an~~  
18           ~~ordinance to levy a county surcharge on state tax by~~  
19           ~~December 31, 2005, this Act shall be repealed and~~  
20           ~~section 437D-8.4, Hawaii Revised Statutes, shall be~~  
21           ~~reenacted in the form in which it read on the day~~  
22           ~~prior to the effective date of this Act;~~

.B. NO.

1       ~~(2)~~] If any county does not adopt an ordinance to levy a  
2           county surcharge on state tax or to change the rate of  
3           its county surcharge on state tax by December 31,  
4           ~~[2005]~~ 2014, it shall be prohibited from adopting such  
5           an ordinance pursuant to this Act, unless otherwise  
6           authorized by the legislature through a separate  
7           legislative act~~[+]~~.

8       ~~[(3) If an ordinance to levy a county surcharge on state~~  
9           ~~tax is adopted by December 31, 2005:~~

10       ~~(A) The ordinance shall be repealed on December 31,~~  
11           ~~2022;~~

12       ~~(B) This Act shall be repealed on December 31, 2022;~~  
13           ~~and~~

14       ~~(C) Section 437D 8.4, Hawaii Revised Statutes, shall~~  
15           ~~be reenacted in the form in which it read on the~~  
16           ~~day prior to the effective date of this Act.]”~~

17       SECTION 7. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19       SECTION 8. This Act shall take effect upon its approval.

INTRODUCED BY: \_\_\_\_\_