

## ACT 82

S.B. NO. 164

A Bill for an Act Relating to Statutory Revision.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 6-26, Hawaii Revised Statutes, is amended to read as follows:

**“§6-26 Commission; members, appointment, tenure.** [The governor shall appoint seven persons in accordance with section 26-34, who shall constitute] There shall be a commission to be known as the Pacific War Memorial Commission of Hawaii[.] consisting of seven persons, six of whom shall be appointed by the governor pursuant to section 26-34, and the adjutant general who shall be an ex officio seventh voting member. One of the commissioners shall be appointed and designated as chairman. The commissioners shall hold office for terms of four years, and shall be subject to removal for cause. The members shall serve without pay but shall receive their reasonable traveling and other necessary expenses.”

SECTION 2. Section 26-21, Hawaii Revised Statutes, is amended to read as

follows:

**“§26-21 Department of defense.** The department of defense shall be headed by a single executive to be known as the adjutant general. The adjutant general shall also be the director of civil defense.

There shall be a full-time vice director of civil defense who shall be appointed and may be removed by the director.

The department shall be responsible for the defense of the State and its people from mass violence, originating from either human or natural causes.

The devolution of command of the military forces in the absence of the adjutant general shall be within the military establishment. The devolution of command of the civil defense agency in the absence of the director of civil defense shall be within the civil defense agency.

There shall be within the department of defense a commission to be known as the civil defense advisory council which shall sit in an advisory capacity to the director of civil defense on matters pertaining to civil defense. The composition of the commission shall be as heretofore provided by law for the civil defense advisory council existing immediately prior to November 25, 1959.

The functions and authority heretofore exercised by the military department and the civil defense agency as heretofore constituted are transferred to the department of defense established by this chapter.

The Pacific War Memorial Commission of Hawaii is placed within the department of defense for administrative purposes. The functions, duties, and powers, subject to the administrative control of the adjutant general, and the composition of the commission shall be as [heretofore] provided by sections 6-26 to 6-30[, except that the governor shall appoint six of the members, with the adjutant general serving as an ex officio seventh voting member. The incumbent members of the commission shall continue in office in accordance with the terms of their appointment]. The commission may at its discretion accept gifts which are designated for particular purposes. Any staff member appointed by the commission shall be exempt from the requirements of chapters 76 and 77.”

SECTION 3. Section 13-2, Hawaii Revised Statutes, is amended to read as follows:

**“§13-2 Qualifications.** No person shall be eligible for election or appointment to the board of education unless he is a registered voter of the school board district from which he is to be elected or appointed and, where residency in a particular departmental school district is a requirement, a resident of the departmental school district for which seat he is seeking election or appointment. No member of the board shall hold or be a candidate for any other public office under the state or county governments in accordance with Article II, section [ ]7[ ] of the Constitution of the State; nor shall a person be eligible for election or appointment to the board of education if that person is also a candidate for any other public office under the state or county governments. The term “public office”, for the purposes of this section , shall not include notaries public, reserve police officers, or officers of emergency organizations for civilian defense or disaster relief.”

SECTION 4. Section 13D-2, Hawaii Revised Statutes, is amended to read as follows:

**“§13D-2 Qualifications of board members.** No person shall be eligible for election or appointment to the board unless he is: (1) qualified and registered to vote under the provisions of section 13D-3, and (2) where residency on a particular island is a requirement, a resident on the island for which seat he is seeking election or appointment. No member of the board shall hold or be a candidate for any other public office under the state or county governments in accordance with Article II, section [ ] of the Constitution of the State; nor shall a person be eligible for election or appointment to the board if that person is also a candidate for any other public office under the state or county governments. The term “public office”, for the purposes of this section, shall not include notaries public, reserve police officers, or officers of emergency organizations for civilian defense or disaster, or disaster relief.”

SECTION 5. Section 26-1, Hawaii Revised Statutes, is amended to read as follows:

**“§26-1 Office of the lieutenant governor.** Except as otherwise provided by law, the lieutenant governor is designated the secretary of State for intergovernmental relations and shall perform the duties and functions heretofore exercised by the secretary of Hawaii. The duties and functions shall include, but not be limited to, supervision of elections, recordation of all legislative and gubernatorial acts, certification of state documents, and maintenance of an official file of rules and regulations promulgated by state departments as provided in chapter 91.

The lieutenant governor, with the approval of the governor, may designate some other officer of the government of the State to authenticate documents on behalf of the lieutenant governor during his temporary absence without the State or during his illness whenever the documents require the signature of the lieutenant governor. The person shall affix his own signature to the document with the words, “for the lieutenant governor” following and the signature shall be deemed to satisfy the requirement of the lieutenant governor’s signature on the document. The designation and approval shall be in writing and shall be filed in the office of the governor and a copy thereof, certified by the governor, shall be filed with the public archives. The person so designated shall serve without additional compensation and the lieutenant governor shall be responsible and liable on his official bond for all acts done by the person so designated in the performance of the duties on behalf of the lieutenant governor.

Nothing in this section shall be construed to authorize the person to exercise and discharge the powers and duties of the office of the governor as provided by the first paragraph of Article [IV,] V, section 4 of the Constitution of the State. The person shall not be authorized to exercise any powers whenever a successor to the lieutenant governor assumes the duties of the lieutenant governor pursuant to [article IV,] Article V, section 4 of the Constitution.”

SECTION 6. Section 26-6, Hawaii Revised Statutes, is amended to read as follows:

**“§26-6 Department of accounting and general services.** The department of accounting and general services shall be headed by a single executive to be known as the comptroller.

The department shall preaudit and conduct after-the-fact audits of the finan-

cial accounts of all state departments to determine the legality of expenditures and the accuracy of accounts; report to the governor and to each regular session of the legislature as to the finances of each department of the State; manage the inventory, equipment, surplus property, insurance, and centralized purchasing programs of the State; establish and manage motor pools; manage the preservation and disposal of all records of the State; undertake the program of centralized engineering services, including operation and maintenance of public buildings, for departments of the State; undertake the functions of the territorial or state surveyor; and establish, analyze, and enforce accounting and internal control systems.

The King Kamehameha [day] celebration commission is placed within the department of accounting and general services for administrative purposes. The functions, duties, and powers, subject to the administrative control of the comptroller, and the composition of the commission shall be as heretofore provided by law.

The functions and authority heretofore exercised by the comptroller, board of commissioners of public archives, the archivist, the disposal committee, and the insurance management, surplus property management, and central purchasing functions of the bureau of the budget and the nonhighway functions of the department of public works as heretofore constituted are transferred to the department of accounting and general services established by this chapter."

SECTION 7. Section 26-9, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

"(c) The [board of examiners of abstract makers,] acupuncture, cemetery and mortuary board, board of accountants, public accountancy, board of barbers, board of cosmetology, boxing commission, board of chiropractic examiners, [collection agencies advisory board,] contractors license board, board of dental examiners, board of electricians and plumbers, elevator mechanics licensing board, board of registration for professional engineers, architects, and surveyors, board of hearing aid dealers and fitters, board of massage, board of medical examiners, motor vehicle repair industry board, board of examiners in naturopathy, board of nursing, board of examiners of nursing home administrators, board of dispensing opticians, board of examiners in optometry, board of osteopathic examiners, pest control board, board of pharmacy, board of practicing psychologists, board of detectives and guards, real estate commission, [and] board of veterinary examiners, and speech pathology and audiology are placed within the department of regulatory agencies for administrative purposes."

SECTION 8. Section 76-35, Hawaii Revised Statutes, is amended to read as follows:

"**§76-35 Intragovernmental transfers.** A transfer is the movement of an employee in the civil service from one position to another position which is: (1) in the same class; (2) in a different class assigned to the same [pay] salary range in the same salary [structure;] schedule or pay schedule; (3) in a different salary [structure] schedule or pay schedule and in a class assigned to a [pay] salary range whose highest [pay] rate is the same as the highest [pay] rate of the [pay] salary range of the class which the employee is transferring from; or, (4) in a different salary [structure] schedule or

pay† schedule and in a class assigned to a [pay] salary range whose highest [pay] rate is less than or exceeds the highest [pay] rate of the class which the employee is transferring from by no more than the dollar difference between the first and second step of the [pay] salary range of the class the employee is transferring from. A transfer both within a department and between two departments may be made without a reduction in pay and with the approval of the department head or heads and the director of personnel services as provided by rule. The term ["pay range"] "salary range" as used herein shall refer to the [pay levels] salary ranges of salary [schedules] structures applicable to employees covered by chapter 77."

SECTION 9. Section 78-18, Hawaii Revised Statutes, is amended to read as follows:

"§78-18 **Limitation on salary of employees and certain officers.** Except as provided in section [78-18.5.] 89C-2, in fixing the compensation of officers and employees in the government service, the appropriate officials shall give due consideration to the limitations prescribed in sections 26-53 and 46-24 and shall fix the salaries of the officers and employees so that such salaries will bear a reasonable relation to the salaries of the department heads and first deputies and first assistants. Anything to the contrary notwithstanding, no subordinate employee, except as provided in section [78-18.5.] 89C-2, shall receive after June 2, 1959, a salary which exceeds the salary paid to his department head or to the first deputy or first assistant to the department head; provided that an employee who is receiving on June 2, 1959, a salary in excess of the salary paid to his department head or to the first deputy or first assistant to the department head shall continue to receive the salary so long as he remains in the same position, or until such time as the salaries of his department head or the first deputy or first assistant are sufficiently increased to authorize adjustments to the employee's salary."

SECTION 10. Chapter 84, Hawaii Revised Statutes, is amended by amending the Preamble to read as follows:

#### "PREAMBLE

The purpose of this chapter is to (1) prescribe [standards of conduct] a code of ethics for elected officers and public employees of the State as mandated by the people of the State of Hawaii in the Hawaii Constitution, Article XIV; (2) educate the citizenry with respect to ethics in government; and (3) establish an ethics commission which will administer the codes of ethics adopted by the constitutional convention and by the legislature and render advisory opinions and enforce the provisions of this law so that public confidence in public servants will be preserved."

SECTION 11. Section 84-19, Hawaii Revised Statutes, is amended by amending subsections (a) and (b) to read as follows:

"(a) Any favorable state action obtained in violation of [any of the standards] the code of ethics for legislators or employees and former employees is voidable in the same manner as voidable contracts as provided for under section 84-16; and the State by the attorney general may pursue all legal and equitable remedies available to it.

\* The words "schedule or pay" are new but were not underscored.

(b) The State by the attorney general may recover any fee, compensation, gift, or profit received by any person as a result of a violation of [these standards] the code of ethics by a legislator or employee or former legislator or employee. Action to recover under this subsection [(b)] shall be brought within two years of such violation [under this chapter].”

SECTION 12. Section 84-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a) The ethics commission shall have the following powers and duties:
- (1) It shall prescribe forms for the disclosures required by Article XIV of the Hawaii Constitution and section 84-17 and the statements and reports required by sections 97-2 and 97-3 and shall establish orderly procedures for implementing the requirements of those provisions.
  - (2) It shall render advisory opinions upon the request of any legislator, employee, or delegate to the constitutional convention, or person formerly holding such office or employment as to whether the facts and circumstances of a particular case constitute or will constitute a violation of the [standards.] code of ethics. It shall also render advisory opinions to persons subject to chapter 97. If no advisory opinion is rendered within thirty days after the request is filed with the commission, it shall be deemed that an advisory opinion was rendered and that the facts and circumstances of that particular case do not constitute a violation of the [standards.] code of ethics. The opinion rendered or deemed rendered, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the legislator, employee, or delegate to the constitutional convention, or person formerly holding such office or employment, or person subject to chapter 97 who sought the opinion and acted in reliance on it in good faith, unless material facts were omitted or misstated by such persons in the request for an advisory opinion.
  - (3) It shall initiate, receive, and consider charges concerning alleged violation of this chapter, initiate or make investigation, and hold hearings.
  - (4) It may subpoena witnesses, administer oaths, and take testimony relating to matters before the commission and require the production for examination of any books or papers relative to any matter under investigation or in question before the commission. Before the commission shall exercise any of the powers authorized herein with respect to any investigation or hearings it shall by formal resolution, supported by a vote of three or more members of the commission, define the nature and scope of its inquiry.
  - (5) It may, from time to time make, amend, and repeal such rules and regulations, not inconsistent with this chapter as in the judgment of the commission seem appropriate for the carrying out of this chapter and for the efficient administration thereof, including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission. The rules and regulations, when adopted as provided in chapter 91, shall have the force and effect of law.

- (6) It shall have jurisdiction for purposes of investigation and taking appropriate action on alleged violations of this chapter in all proceedings commenced within one year after termination of state employment by a legislator or employee. Nothing herein shall bar proceedings against a person who by fraud or other device, prevents discovery of a violation of this chapter. A proceeding shall be deemed commenced by the signing of a charge by three or more members of the commission.
- (7) It shall distribute its publications without cost to the public and shall initiate and maintain programs with the purpose of educating the citizenry and all legislators, delegates to the constitutional convention, and employees on matters of ethics in government employment.
- (8) It shall administer any code of ethics adopted by a state constitutional convention, subject to the procedural requirements of this part and any rules adopted thereunder.
- (9) It shall perform the duties and fulfill the functions assigned to it by chapter 97, relating to registration of lobbyists.”

SECTION 13. Section 84-33, Hawaii Revised Statutes, is amended to read as follows:

“**§84-33 Disciplinary action for violation.** In addition to any other powers [of] the civil service commission or other authority may have to discipline employees, the civil service commission or authority may reprimand, put on probation, demote, suspend, or discharge an employee found to have violated the [standards of this chapter.] code of ethics.”

SECTION 14. Section 84-37, Hawaii Revised Statutes, is amended to read as follows:

“**§84-37 Concurrent jurisdiction.** Notwithstanding any provision contained herein, pursuant to article III, section [13] 12 of the Constitution of the State of Hawaii each house of the legislature may prescribe further rules of conduct covering its members and may investigate and discipline a member for any violation of [this chapter or] its rules[.] or the code of ethics.”

SECTION 15. Section 87-1, Hawaii Revised Statutes, is amended by amending the definition of “employee” to read as follows:

“(5) “Employee” means an employee or officer of the state or county government,

(A) Including:

- (i) A regularly employed member of the faculty of the University of Hawaii, including a research worker, an extension agent, or a person engaged in instructional or administrative work of the university;
- (ii) A regularly employed administrative officer, principal, vice-principal, teacher, special teacher, cafeteria manager, or cafeteria worker of the public schools;
- (iii) An apprentice or on-the-job trainee whether or not supported by any federal grant;
- (iv) An elective officer including a member of the legislature

- during his term of office, or a person who has served as a member of the legislature for at least a total of ten years;
  - (v) A probationary employee;
  - (vi) A per diem employee;
  - (vii) An officer or employee under an authorized leave of absence;
  - (viii) An employee of the Hawaii national guard although paid from federal funds;
  - (ix) A retired member of the employees retirement system, the county pension system, or the police, [fire fighters,] firefighters, or bandsmen pension system of the State or county; and
  - (x) A salaried and full-time member of a board or commission appointed by the governor;
- (B) But excluding:
- (i) A designated beneficiary of a retired member of the employees retirement system, the county pension system, or the police, [fire fighters,] firefighters, or bandsmen pension system of the State or county;
  - (ii) A person employed temporarily on a fee or contract basis;
  - (iii) A person employed for less than three months and whose employment is less than one-half of a full-time equivalent position;
  - (iv) A non-salaried and non-full time member of a board, commission, or agency appointed by the governor [or mayor, or chairman of the State or county, respectively;] of the State or the mayor of a county; and
  - (v) An employee of the legislature other than a member of the permanent staff;"

SECTION 16. Section 128-11, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- "(a) There shall be available for allotment by the governor under this chapter:
- (1) Any moneys appropriated for the purposes of this chapter, or reappropriated pursuant to subsection (b) and any unexpended moneys appropriated for disaster relief or administration thereof by [Act 320 of the Session Laws of Hawaii 1949, Act 3 of the Special Session Laws of Hawaii 1950, or] any [other Act,] act, but only within the scope and purposes of the appropriations so made by the legislature[, provided that in the event of a civil defense emergency period the appropriation made by Act 3 of the Special Session Laws of Hawaii 1950 may be expended in preparation for an attack as well as in the event of an attack];
  - (2) Any unexpended moneys appropriated for the purposes of Act 21 of the Special Session Laws of Hawaii 1949, relating to making available necessary commodities in an emergency[, or reappropriated pursuant to the Act];
  - (3) Contributions, as provided by section 128-10; and
  - (4) The governor's contingent fund."



SECTION 17. Section 171-19, Hawaii Revised Statutes, is amended to read as follows:

**“§171-19 Special land and development fund. (a)** There is created in the department of land and natural resources a special fund to be designated as the “special land and development fund”. Subject to the provisions contained in the Hawaiian Homes Commission Act of 1920, as amended, and in section 5(f) of the Admission Act of 1959, all proceeds of sale of public lands, including interest on deferred payments, and all rents from leases, licenses, and permits derived from public lands shall be set apart in the fund and shall be used only as authorized by the legislature, except that, without such prior legislative authority, the board of land and natural resources may use the fund for the following purposes:

- (1) To reimburse the general fund of the State for advancements heretofore or hereafter made therefrom, which are required to be reimbursed from the proceeds of sales, leases, licenses, or permits derived from public lands;
- (2) For the incidental maintenance of all lands under the control and management of the board, including the repair of improvements thereon, not to exceed \$100,000 in any fiscal year;
- (3) To repurchase any land, including improvements thereon, in the exercise by the board of any right of repurchase specifically reserved in any patent, deed, lease, or other documents or as provided by law;
- (4) For the payment of all appraisal fees; provided[,] that all such reimbursable fees collected by the board shall be deposited in the fund;
- (5) For the payment of publication notices as required under this chapter[,] provided that all or a portion of the expenditures may be charged to the purchaser or lessee of public lands or any interest therein under rules and regulations adopted by the board;
- (6) For the planning and construction of roads and trails along state rights-of-way not to exceed \$5,000 in any fiscal year; and
- (7) For the payment to private land developer or developers who have contracted with the board for development of public lands under [the provisions of] section 171-60.

(b) Notwithstanding the above provisions, but subject to the restrictions contained in section 5(f) of the Admission Act, whenever the board sells remnants to abutting owners, the proceeds therefrom including interest on deferred payments, shall be deposited into the general fund; provided[,] that such proceeds shall be set apart to the appropriate fund where mandatory federal requirements affecting federal funds so require.

(c) Notwithstanding the above limitations on use of the proceeds of sale, where the board sells public lands including the buildings thereon once used but no longer necessary for school purposes at the recommendation and request of the board of education, all net proceeds derived from the sales [are hereby appropriated to the county wherein the sales occur] shall be used for the acquisition of land or for the erection of buildings for school purposes to the extent of an approved building plan in the departmental school district wherein the sales occur. In the absence of any school building program in the district or in the event of any surplus remaining after the completion of buildings constructed pursuant to the approved plan then the pro-

ceeds or surplus shall be used in other departmental school districts in the county wherein the sales occur.

(d) When use of the fund is authorized by the legislature for the development of public lands for a particular project, to be disposed of by sale, lease, license, or permit, the board may pay from the fund the costs of the development, including the costs of surveys, construction of roads, water lines, [and] sewer lines, and such other improvements as may be necessary for the development of the lands; provided[,], that the project shall meet with the zoning and subdivision requirements of the appropriate county and city and county government in which the lands are located, except that plans and specifications for recreational projects, including access roads therefor, shall not be required to meet with such approval; and provided further[,], that no such development of public lands for disposal by sale, lease, license, or permit shall be made unless appropriate roads, water lines, and other improvements are installed which will make the land usable for the purpose for which it is being disposed at the time of disposition.”

SECTION 18. Section 286-47, Hawaii Revised Statutes, is amended to read as follows:

**“§286-47 Certificate of registration; certificate of ownership; containers.** Upon the registration of a vehicle, the director of finance shall issue a certificate of registration to the owner and a certificate of ownership to the legal owner, or to a dealer who shall be a person licensed to sell new motor vehicles under chapter 437 which certificates shall meet the following requirements;

- (1) Both the certificate of registration and the certificate of ownership shall contain upon the face thereof, the date issued, the registration number assigned to the owner and to the vehicle, the name and address of the owner and legal owner in typewriting, also such description of the registered vehicle as may be determined by the director of finance. If any of the information subsequently proves to be a typographical error, the dealer, as defined in section 437-1, shall notify the director of finance of the error by a written certificate stating the reasons for and nature of the error and the correction which should be made in the certificate of registration and the certificate of ownership. Upon receipt of the dealer’s certificate by the director of finance, the certificate of registration and the certificate of ownership shall be corrected accordingly so long as the correction does not constitute a change of the vehicle originally registered. A fee of \$1 shall be paid to the director of finance for each instance of correction of the registration records.
- (2) In addition to the requirements provided for in paragraph (1) above, the face of the certificate of ownership shall contain endorsement lines for the transfer of title or interest of the registered owner and legal owner, and the odometer reading of the vehicle on the date of transfer. The reverse side of the certificate of ownership shall contain the application for registration by the transferee.
- (3) (A) Whenever a new vehicle is first registered hereunder, the director of finance shall issue a suitable container with the certificate of registration issued for the vehicle. Every owner upon receipt of a certifi-

cate of registration shall place the same in the container which must be kept within the vehicle for which it is registered and be presented at the request of a police officer, or in the event the vehicle is a motorcycle, shall carry such certificate in a convenient receptacle attached to the vehicle and which shall be presented at the request of a police officer.

- (B) This shall not apply to state or county vehicles readily identified by the license plates and markings on sides of [said] such vehicles.
- (C) The container shall be furnished by the director of finance, for which he shall charge a sum not to exceed 50 cents. This requirement to carry the certificate of registration with the vehicle shall not apply when such certificate is removed from the vehicle for the purpose of application for renewal, [or] transfer of registration, or to record a change in the registration.”

SECTION 19. Section 286-56.5, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**“§286-56.5 Special license plates for consul or official representative of [[foreign or]] territorial government.”**

SECTION 20. Section 290-11, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) Towing companies engaged by the owner, occupant, or person in charge of the property shall charge no more than \$25 a tow, \$37.50 for a tow using a dolly, and \$2 for each twenty-four hour period of storage or fraction thereof. Such vehicle may be disposed of in accordance with this chapter for the disposition of abandoned vehicles. The towing company shall determine the name of the legal owner and the registered owner of the vehicle from the department of transportation or the motor vehicle licensing division[, and may use section 286-172(a) (3) for this purpose]. The legal owner and the registered owner shall be notified in writing by registered or certified mail of the location of the vehicle within a reasonable period not to exceed fifteen days [of] following the tow. Where the owners have not been so notified then the owner may recover his car from the towing company without paying tow or storage fees. A mail receipt signed by the registered owner is prima facie evidence of notification. A person who has been charged in excess of the charges permitted under this section may sue for damages sustained, and, if the judgment is for the plaintiff, the court shall award the plaintiff a sum not to exceed the amount of [said] such damages and reasonable attorney’s fees together with the cost of suit.”

SECTION 21. Section 305A-4, Hawaii Revised Statutes, is amended to read as follows:

**“§305A-4 Vocational education coordinating advisory council.** There is established a vocational education coordinating advisory council which shall serve in an advisory capacity to the board of regents. The council shall consist of eleven members, nine appointed and two ex officio voting members. Of the nine appointed members, three shall be appointed from the board of regents of the University of Hawaii by the chairman of that body, three shall be appointed from the board of education by the chairman of that body, and three shall be appointed from the state

commission on manpower and full employment by the chairman of that body. Of the three members appointed from the commission on manpower and full employment, one member shall represent management, one member shall represent labor, and the third shall represent the public. Of the two ex officio members one shall be the president of the University of Hawaii and the other shall be the superintendent of education.

Of the three members first appointed by each appointing authority, other than the chairman of the board of education, one shall be appointed for two years, one shall be appointed for three years, and one shall be appointed for four years. In the case of the members appointed from the board of education, the terms of such members shall be for their remaining terms as members of the board of education. Upon the expiration of the terms of the first members, their successors shall serve for a term of four years. Vacancies shall be filled by the appropriate appointing authority for the unexpired term.

The council shall elect a chairman and such other officers as it deems necessary. Section [92-11] 92-15 shall apply. The members of the council shall serve without pay but shall be entitled to their traveling expenses within the State when attending meetings of the council or when actually engaged in business relating to the work of the council."

SECTION 22. Section 323D-2, Hawaii Revised Statutes, is amended to read as follows:

"§323D-2 **Definitions.** As used in this chapter:

- (1) "Annual implementation plan" means the annual program plan pursuant to section 323D-16.
- (2) "Secretary" means the secretary of the United States Department of Health[, Education, and Welfare,] and Human Services, or the secretary of the federal agency that is the successor to the United States Department of Health[, Education, and Welfare.] and Human Services.
- (3) "State agency" means the state health planning and development agency established in section 323D-11.
- (4) "State health plan" means the comprehensive, coordinated plan for the development of health services in the State prepared by the statewide council.
- [(5) "State medical facilities plan" means the comprehensive medical facilities plan pursuant to section 323D-31.
- (6) (5) "Statewide council" means the statewide health coordinating council established in section 323D-13.
- [(7) (6) "Subarea" [shall mean] means one of the geographic subareas designated by the state agency pursuant to section [[323D-21]].
- [(8) (7) "Subarea council" means a subarea health planning council established pursuant to section [[323D-21]]."

SECTION 23. Section 346-122, Hawaii Revised Statutes, is amended to read as follows:

"[[§346-122]] **Licensure of independent group residences.** The department shall license independent group residences in accordance with federal requirements

and standards established to ensure the quality of supportive services provided in independent group residences and that residents of such residences have a suitable living environment.

Licenses shall only be issued to public or private nonprofit organizations qualified to prepare and submit planned programs of supportive services suitable to the particular residence which the organization's members wish to establish.

Standards for licensure shall include minimal qualifications, quantity, and working hours of resident assistants or other persons providing continual supportive services as well as procedures and methods whereby the organization seeking licensure plans to interface its activities into the section 8 housing assistance payments program of the United States Department of Housing and Urban Development. The "section 8 housing assistance payments program" means the program under section 8 of the United States Housing Act of [[1937]] (chapter [[896]], 50 Stat. 888), as amended.

Nothing in this part shall be construed to include or affect facilities or homes licensed by the department, the department of health, or any other state agency which provides minimal assistance and supervision in living activities to adults."

SECTION 24. Section 362-83, Hawaii Revised Statutes, is repealed.

SECTION 25. Section 416-78, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**"§416-78 Consent of stockholders [or members] in lieu of meeting."**

SECTION 26. Section 425-40, Hawaii Revised Statutes, is amended to read as follows:

**"§425-40 Effect of retirement, death, or adjudication of incompetency of a general partner.** The retirement or death of a general partner, or the order of a court of competent jurisdiction adjudicating a general partner incompetent to manage his person or his property dissolves the partnership, unless the business is continued by the remaining general partners under a right to do so stated in the certificate, or with the consent of all members. However, the retirement, death, or [insanity of] the order of a court of competent jurisdiction adjudicating the sole remaining general partner incompetent to manage such partner's person or property dissolves the partnership."

SECTION 27. Section 448-6, Hawaii Revised Statutes, is amended by amending the title to read:

**"§448-6 Officers, meetings[, quorum]."**

SECTION 28. Section 452-3, Hawaii Revised Statutes, is amended by amending the title to read:

**"§452-3 Massage establishments to be [registered.] licensed."**

SECTION 29. Section 468K-1, Hawaii Revised Statutes, is amended by amending the definition of "sales representative" to read as follows:

"(4) "Sales representative" means any employee or agent of a travel agency who arranges for the purchase or sale of travel services but does not include a salaried employee of a [[registered]] travel agency."

SECTION 30. Section 468K-12, Hawaii Revised Statutes, is amended by

amending its title to read:

**“~~§468K-12~~ Disciplinary action against ~~the~~registrant.”**

SECTION 31. Section 531-29, Hawaii Revised Statutes, is amended by amending its title to read:

**“§531-29 Confirmation of sales of real property by personal representatives or guardians.”**

SECTION 32. Section 560:3-301, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Informal probate and appointment proceedings shall be available only if the estate of the decedent subject to probate proceedings in this State has a gross value of ~~[\$30,000]~~ \$40,000 or less.”

SECTION 33. Section 560:3-308, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) In an interstate informal appointment proceeding, the registrar shall determine whether:

- (1) The application is complete;
- (2) The value of the estate is ~~[\$30,000]~~ \$40,000 or less;
- (3) The applicant has made oath or affirmation that the statements contained in the application are accurate and complete to the best of his knowledge and belief;
- (4) The applicant appears from the application to be an interested person as defined in section 560:1-201(24);
- (5) Any requested statutory allowances or exempt property are proper;
- (6) The person nominated as personal representative has priority and is qualified to serve as such;
- (7) On the basis of the statements in the application, venue is proper;
- (8) Notice required by sections 560:3-204 and 560:3-301 has been given; and
- (9) It appears from the application that the time limit contained in section 560:3-108 either has not expired or, in the case of ancillary proceedings, is not applicable.”

SECTION 34. Section 560:3-502, Hawaii Revised Statutes, is amended to read as follows:

**“§560:3-502 Supervised administration; when required; petition; order. A petition for supervised administration shall be filed for any estate subject to probate proceedings in this State if the gross value thereof is over ~~[\$30,000;]~~ \$40,000; provided [however,] if probate proceedings were commenced informally and the file is transferred pursuant to section 560:3-706(b), no new petition need be filed. A petition for supervised administration may be filed by any interested person or by a personal representative at any time or the prayer for supervised administration may be joined with a petition in a formal testacy or appointment proceeding, but if the estate qualifies for informal proceedings, the court may deny a petition for supervised administration filed by someone other than the personal representative for good cause. If the testacy of the decedent and the priority and qualification of any personal representative have not been adjudicated previously, the petition for supervised adminis-**

tration shall include the matters required of a petition in a formal testacy proceeding and the notice requirements and procedures applicable to a formal testacy proceeding apply. If not previously adjudicated, the court shall adjudicate the testacy of the decedent and questions relating to the priority and qualifications of the personal representative in any case involving a request for supervised administration even though the request for supervised administration may be denied. After notice to the persons enumerated in section 560:3-403 in the manner provided in section 560:1-401 and proof that a copy of the petition has been delivered to all such persons in the manner provided in section 560:1-401, the court shall order supervised administration of a decedent's estate:

- (1) If the gross value of the estate subject to probate proceedings in this State is over [~~\$30,000;~~] \$40,000;
- (2) If the personal representative requests it;
- (3) If the decedent's will directs supervised administration, unless the court finds that circumstances bearing on the need for supervised administration have changed since the execution of the will and that there is no necessity for supervised administration;
- (4) If the decedent's will directs unsupervised administration, only upon a finding that it is necessary for protection of persons interested in the estate; or
- (5) In other cases if the court finds that supervised administration is necessary under the circumstances."

SECTION 35. Section 560:3-503, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) If a will has been previously probated in informal proceedings, the effect of the filing of a petition for supervised administration is as provided for formal testacy proceedings by section 560:3-401. If supervised administration is commenced on account of the discovery of additional assets so that the decedent's gross estate in this State is in excess of [~~\$30,000,~~] \$40,000, any distributions made in good faith by the personal representative shall not be disturbed, but the remaining estate of the decedent shall be administered and distributed pursuant to court order, and the determinations of testacy status and successors of the decedent made by the registrar shall not be binding on the court with respect to such remaining estate of the decedent."

SECTION 36. Section 560:3-706, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) If the probate proceedings were commenced informally but the inventory [and/or] or any appraisal, or both, reveal, or the personal representative otherwise learns prior to or after the close of the informal proceedings, that the gross value of the estate is in excess of [~~\$30,000,~~] \$40,000, the personal representative shall forthwith:

- (1) Commence a supervised proceeding by instructing the registrar to transfer the file to the court; and
- (2) Notify all persons enumerated in section 560:3-403 in the manner provided in section 560:1-401 of such transfer and the reason therefor; pro-

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vided[, however,] no newspaper publication of the transfer shall be required.”

SECTION 37. Section 709-906, Hawaii Revised Statutes, is amended by amending subsection (1) to read as follows:

“(1) It shall be unlawful for any person, singly or in concert, to physically abuse his or her spouse, or to refuse compliance with the lawful order of a police officer under subsection (3). The police, in investigating any complaint of spouse abuse may, upon request, transport [such person] the abused person to a hospital or safe shelter.”

SECTION 38. This Act shall be amended to conform to all other acts passed by the legislature during this Regular Session of 1981, whether enacted before or after the effective date of this Act, unless such other acts specifically provide otherwise.

SECTION 39. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 40. This Act shall take effect upon its approval.

(Approved May 30, 1981.)

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\*In Section 24, the repealed (bracketed) material was deleted pursuant to HRS §23G-16.5.