

HAWAII LEGISLATIVE DRAFTING MANUAL

Ninth Edition

Revised by
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FOREWORD

This Drafting Manual is prepared for use in Hawaii by the Senate and the House of Representatives to furnish general guidelines for the agencies and individuals who prepare measures for introduction in the Hawaii Legislature.

This ninth revised edition of the Manual reflects the continuing evolution of legislative drafting practices in Hawaii. This publication fine tunes the previous edition to update material which reflect adjustments to accommodate recent legislation and legislative practices and to incorporate the ideas contained in suggestions of manual users.

In its evolution, the Drafting Manual has emerged from a compendium of forms and helpful hints in bill drafting to what is used as a text by the Bureau and others for instructing each session's contingent of new legislative staffers. The utility of this Manual, therefore, depends upon its continued improvement through the suggestions and input of its users. To those who have contributed to this edition by their helpful and encouraging comments, in particular. Ms. Linda L.N. Oamilda, Ms. Susan K. Claveria, Ms. Jill E. Frierson, Mr. Michael P. Ong, and Mr. Richard F. Kahle, Jr., who also contributed the section on drafting around "drop dead" and reenactment provisions, the Bureau extends its sincere thanks.

The Bureau specifically wishes to acknowledge Mr. Richard F. Kahle, Jr., Mr. James T. Funaki, Mr. Samuel B.K. Chang, and the late Mr. Herman Doi and Ms. Patricia Putman for their contributions to previous editions of the Drafting Manual. Their efforts and dedication over the years have gone a long way toward making the Drafting Manual what it is today.

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Chapter 1

INTRODUCTION

The Constitution of the State of Hawaii, Article III, Section 14, provides, in part: *No law shall be passed except by bill.* This means that every statute must be introduced in the Legislature in the form of a bill. A bill should represent a concept or idea in clear, simple, brief, and unambiguous language.

Drafting of bills appears to many people as a formidable task. Actually, in the hands of a trained and competent technician, given appropriate directions and specifications, it is probably one of the least difficult components in the legislative process. Far greater difficulty is encountered in doing a good job furnishing the specifications or concepts to be incorporated into draft legislation. The following discussion focuses on the many considerations that must be given an idea before seriously proposing a concept to be drafted into bill form.

The sequence on how an idea is translated into specifications for a bill could be described as follows:

- (1) An idea is thought up.
- (2) The idea is developed.
 - (A) The purpose behind the idea must be firmly understood.
 - (B) Strategies for carrying out the purpose must be thought through, i.e., how is the purpose to be accomplished?
 - (C) Application of the strategies to real life situations must be tested and found workable and consistent to achieve the desired purpose.
 - (D) Ramifications of the strategies as applied must be ascertained and the bad effects, as well as the good, must be determined.
- (3) If the idea as developed works out logically and in practical application, we are prepared to write out specifications.
- (4) Put the specifications into writing. Be sure to state the problem, the proposed solution or solutions, the purpose behind the idea, and the various policy choices made or factual data supporting conclusions.

Using a hypothetical idea, the thinking process involved may go something like this:

An Idea Is Conceived

Someone thinks it would be a good idea to encourage homeowners to plant greenery in their yards. This will beautify and add to the attractiveness of neighborhoods and promote pride of homeownership.

The Idea is Developed

How can we encourage this kind of behavior? It is suggested that incentives be provided--give tax credits for residential homeowners for planting greenery, i.e., a homeowner who plants something will be allowed to take off a certain amount from the state income tax.

At this point, in developing the idea, many questions must be asked and decisions made or data obtained, such as:

- (1) What precisely can be planted? Are we talking about trees, hedges, shrubs, etc.?
- (2) How much greenery must be planted? Does a person get the same tax credits for planting one tree as opposed to several trees; one patch of hedge as opposed to a hedge covering an entire side of a lot? Does it matter if the greenery is planted in the front yard (where it can be seen) or in the back yard behind the house?
- (3) Does the planting effort have to be successful? Suppose some or all the plants which are planted die after a month, or six months? Is the homeowner to be rewarded for trying irrespective of results? What administrative difficulties will be met (in terms of proof) if effort and not result is what counts?
- (4) What is the amount of tax revenues that will be lost if this kind of program is instituted? Can the State afford this loss?
- (5) How much should the tax credit be? What is an amount sufficient to provide an incentive yet not so large as to be unaffordable? How are the tax credits to be claimed? Are additional forms required to be filed to administratively process the claim?

The answers to some of the questions posed are in part policy decisions--there is no right or wrong answer--and in part answerable only through basic research. For example, finding out how many homeowners with yards there are will indicate the range of possible revenue losses.

In addition to the considerations associated with the concept, to better the chances of success of passing the bill, thought must be given to possible objections by others. For example, will tax administrators be opposed to the idea because it will impose an administrative burden to their staff? Is additional staff money required to process the claim?

Once a good set of specifications are developed, then the drafter, whether the person who has developed the idea from the start or a technician to whom the task of drafting the bill is given, can begin to apply the principles of legislative drafting.

The following summarizes the basic steps which will help the bill drafter in achieving clarity and brevity:

- (1) **Find out what the legislator wants.** In order that a bill drafter may embody the idea of a legislator in a bill, the drafter must first know what the legislator wishes to accomplish by the bill and what problems are involved. The drafter

INTRODUCTION

must therefore gather the relevant facts from the legislator, or from other sources, and analyze the problem.

- (2) **Examine the legal framework.** The drafter must examine all of the relevant and applicable constitutional provisions and statutes to see what has to be amended, repealed, or supplemented. A list of some of the provisions of the Constitution and of the *Hawaii Revised Statutes* which cut across a broad range of subject matters is included as Appendix A.

When amending existing law, in checking the present language as set forth in the *Hawaii Revised Statutes*, the latest supplement (pocket part) must be consulted in addition to the bound portion. Also the year of the supplement should be determined. If, for example, after April 1996, the 1995 supplement is consulted, the drafter is cautioned to ascertain whether legislation passed in the 1996 legislative session changed the language of the section being amended.

- (3) **Select and organize the concepts.** The drafter must select the most appropriate concepts and organize them into a coherent plan of organization and arrangement. The specific concepts must cover only the intended areas, leave no gaps, not overlap or duplicate each other, and must not contradict each other.
- (4) **Prepare the draft.** Preparation of the draft usually involves the following steps:
 - (A) Preparation of the first draft;
 - (B) Necessary revisions;
 - (C) Checking definitions, cross references, and existing laws affected;
 - (D) Cross-checking with others; and
 - (E) Improving the style.

Chapter 2

STATUTORY AND CONSTITUTIONAL DRAFTING

Part I. Types of Bills

While the Hawaii constitution requires bills to contain certain elements, neither the constitution nor statutory law prescribe specific formats for particular types of bills. Elements of different types of bills may be combined in a single measure, but in their basic form, examples of four of the most common types are set forth in the remainder of this part. They are:

- (1) Bills amending laws in the *Hawaii Revised Statutes* (Example 2-1);
- (2) Bills for general (uncodified) laws not intended or not appropriate for inclusion in the *Hawaii Revised Statutes* (Example 2-2);
- (3) Appropriation bills (actually a subset of No. 2, but common enough to justify a separate category) (Example 2-3); and
- (4) Bills proposing constitutional amendments (Example 2-4).

As much as their general appearances may vary, the different types of bills share certain characteristics, including:

- (1) General characteristics relating to structure and organization (see part II of this chapter);
- (2) Using as an underlying base existing statutory material, as well as the style, grammar, organization, and word usage conventions followed in the *Hawaii Revised Statutes* (see chapter 3);
- (3) Showing changes being made to existing law using the Ramseyer format (see chapter 5) that prescribes the use of:
 - (A) Prefatory language to describe the statutory unit of organization being added, amended, or repealed;
 - (B) Specific conventions showing material that must be set forth as a "base" to use for amendment or repeal; and
 - (C) The use of bracketing to show language deleted, and underscoring to show language added.

Part II. Elements of the Bill

The parts of a bill (as shown in Examples 2-1 to 2-4) are generally as follows:

1. Title

The Hawaii Constitution provides that each law shall embrace but one subject, which shall be expressed in its title (Hawaii Constitution, Article III, Section 14). A title must include a distinct reference to the subject matter to which it relates and also cover but one subject. Thus, the scope of the title cannot be narrower than the scope of the subject matter of the bill.

The title of a bill begins with the words *A BILL FOR AN ACT* usually followed by connective words such as *RELATING TO* and ends with the expression of the general subject such as *INCOME TAX DEDUCTIONS*.

The title should be as short and concise as possible and should identify the subject matter of the bill without going into too much detail. A title so drawn permits amendment to the body of the bill while the bill is pending in the Legislature. Care should be exercised, however, so that a title is not so broad or general that it fails fairly to express the one subject of the bill. In a bill repealing or amending an existing statute, it is generally a better practice to have the title identify the chapters of the law by subject which are affected rather than individual section or chapter numbers. On the other hand, in a bill proposing a constitutional amendment, it is preferable to state with precision the article and section of the Constitution sought to be amended. Frequently, the title of a bill proposing a constitutional amendment is narrowly drawn to limit the scope of the subject matter of the bill.

Although in the past in Hawaii, titles to bills have been amended, the veto message to S.B. No. 1209-77 and Attorney General Letter Opinion dated April 11, 1978, indicate that titles should not be amended.

2. Enacting Clause

The enacting clause of each law is *BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII*: (Hawaii Constitution, Article III, Section 14).

3. Body

(Not necessarily in the complete order listed.)

a. Short Title

A short title may be used to identify basic legislation and also to serve as a convenient citation to a comprehensive, continuing program.

Examples:

(1) Chapter 560, HRS

§560:1-101 Short title. This chapter shall be known and may be cited as the Uniform Probate Code.

(2) Chapter 514A, HRS

§514A-1 Title. This chapter shall be known as the "Condominium Property Act".

b. Preamble ("Findings" or "Purpose" Section)

The regular inclusion of a findings and purpose section in all bills is not advisable. Most bills are, or should be, self-explanatory, and the inclusion of such a section only increases the length of a bill and burdens the reader.

Since a findings and purpose section should not contain substantive law, it usually does not need to be codified in the Hawaii Revised Statutes. Therefore, if such a section is included in a bill, it generally is preferable to make it the first section of the bill and not place it within the language of the bill which will be codified. See Example (6) below. The findings portion in a bill should come before the statement of purpose.

If the drafter believes that the findings and purpose should be published in the Hawaii Revised Statutes, then the best way to accomplish this is to include the findings and purpose as a section of a new chapter being enacted, or added to an existing chapter. See Example (1) below.

Use of a findings and purpose, policy, or findings and declaration of necessity section may be advisable in some instances. Six instances are set forth below:

- (1) A bill of major significance where the effectiveness of the proposed legislation will be dependent upon a proper appreciation of the legislative intent.

Example: Act 210, SLH 1974
(Section 393-2, HRS)

§ -2 Findings and purpose. The cost of medical care in case of sudden need may consume all or an excessive part of a person's resources. Prepaid health care plans offer a certain measure of protection against such emergencies. It is the purpose of this chapter in view of the spiraling cost of comprehensive medical care to provide this type of protection for the employees in this State. Although a large segment of the labor force in the State already enjoys coverage of this type either by virtue of collective bargaining agreements, employer-sponsored plans, or individual initiative, there is a need to extend that protection to workers who at present do not possess any or possess only inadequate prepayment coverage.

This chapter shall not be construed to interfere with or diminish any protection already provided pursuant to collective bargaining agreements or employer sponsored plans that is more favorable to the employees benefited thereby

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than the protection provided by this chapter or at least equivalent thereto.

- (2) A bill proposing a constitutional amendment because of the importance of making fundamental changes absolutely clear. See Example 2-4 for an example of a bill proposing a constitutional amendment.
- (3) A bill proposing a technical change to the law, the significance of which would not be evident to a reader (e.g., a bill changing a provision to overrule, avoid, or conform the law to a judicial interpretation).
- (4) A bill in which enforcement depends principally upon administration, particularly if the administrators have not participated in the preparation of the bill.

Example: Section 321-221, HRS

§321-221 Findings and purpose. The legislature finds that the establishment of a state comprehensive emergency medical services system is a matter of compelling state interest, to protect and preserve the health of the people of the State. A system designed to reduce medical emergency deaths, injuries, and permanent long-term disability through the implementation of a fully integrated, cohesive network of components, the legislature further finds, will best serve health needs of the people. Accordingly, the purpose of this part is to establish and maintain a state comprehensive emergency medical services system throughout the State, and to fix the responsibility for the administration of this state system which shall provide for the arrangement of personnel, facilities, and equipment for the effective and coordinated delivery of health care services under emergency conditions whether occurring as the result of a patient's condition or of natural disasters or other causes. The system shall provide for personnel, personnel training, communications, transportation, facilities, coordination with emergency medical and critical care services, coordination and use of available public safety agencies, promotion of consumer participation, accessibility to care, and the transfer of patients, mandatory standard medical record keeping, consumer information and education, independent review and evaluation, disaster linkage, mutual aid agreements, and other components necessary to meet the purposes of this part.

- (5) A recodification bill intended only to restate existing law without substantive change; thus rebutting a presumption that a change in language implies a change in substance.

Example: Act 98, SLH 1977

SECTION 1. The purpose of this Act is to restate, without substantive change, the Horizontal Property Act.

- (6) A recodification bill intended to clarify the intent of the Legislature because of a court decision to the contrary.

Example: Act 213, SLH 1973

SECTION 1. The purpose of this Act is to expressly restate, reiterate, and declare the intent of the legislature in enacting section 663-7, Hawaii Revised Statutes, concerning the survival of death actions, was originally and is now to cover and include as an element of damages recoverable by the legal representative of the deceased in behalf of the estate of the deceased, any likely earnings during the life expectancy of the deceased, diminished by the probable cost of his own maintenance and provision for his family, reduced to present worth.

- (7) A bill when the legislator requests a purpose, etc., section.

Caveat. The draft of a findings and purpose section should (1) reflect the contents of the entire bill, including its contents as amended during the course of the legislative process (committee and floor amendments); (2) avoid creation of ambiguity; and (3) be the last section drafted (then, frequently its need disappears). This section is not a substitute for sloppy drafting of other sections of the bill and is most helpful when it states the facts and purpose concisely.

c. Definitions

The purpose of a definition is to achieve clarity and consistency without burdensome repetition. The definition should not contain the term being defined. Once a term is defined in a bill, the definition should be used for that term throughout the bill; an exhaustive definition uses the word *means*, a partial definition uses the word *includes*, and if neither of these is accurate, the definition may use *refers to*.

Avoid drafting definitions that state the obvious, are used only once, are stuffed with substantive law, or are tortured. Certain terms are already defined in chapter 1, Hawaii Revised Statutes. A drafter wishing to define one of those same terms elsewhere can simply incorporate them by reference.

d. Administrative Agency Provisions

The creation or extension of administrative agencies must be drafted in the framework of the Hawaii Constitution (especially Article V, Section 6) and chapters 26 and 91 of the Hawaii Revised Statutes. A checklist of administrative provisions includes the department, department head, appointment and removal, compensation, powers and duties, classification of

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employees, rules, civil service status, reports, and relationship to local government.

See chapter 3, section 1, for a listing of the proper titles of existing departments and department heads.

e. Rules of Court

If appropriate, use existing rules of court rather than create new ones.

Prior to adding extensive court procedures to the statutes, determine their necessity by consulting the Rules of Court for the various Hawaii courts adopted by the Hawaii Supreme Court. See section 602-11, HRS. The Rules of Court may be incorporated by reference.

Example: Section 205-6, HRS

A denial either by the county planning commission or by the land use commission, or a modification by the land use commission, as the case may be, of the desired use shall be appealable to the circuit court of the circuit in which the land is situated and shall be made pursuant to the Hawaii rules of civil procedure.

OR

Example: Section 635-3, HRS

The court may dismiss any action for want of prosecution after due notice to the claimants whenever claimants have failed to bring such action to trial within a period established by rule of court.

f. Substantive Provisions

The substance of the bill sets forth rights, powers, privileges, and immunities of persons to be benefited or regulated. These provisions will be drafted as prescriptions, prohibitions, or regulations or combinations thereof.

g. Subordinate Provisions

If subordinate provisions are important enough, include them as separate sections.

h. Penalties or Sanctions

Penalties or sanctions may be criminal (fine and imprisonment), civil (civil penalty, creation of a cause of action for damages, injunctive relief, presumption of negligence), or administrative (publicity or revocation or suspension of license). For specific penalties, see chapter 4, section 1.

i. HRS Section Order in Bills

When drafting a bill, the sections from the Hawaii Revised Statutes being amended should be set forth in numerical order with the lowest number first. If the bill being drafted contains new sections, amended sections, and repealed sections, the bill should be drafted in three parts. The first part should contain the new sections in numerical order with the lowest number first, the second part should contain amended sections, in numerical order again with the lowest number first, and the third part should contain repealed sections, starting again with the lowest number.

This is a simple, mechanical convention that facilitates organization and understanding of the measure. It is not a requirement of law. As a practical matter, wholly new chapters or sections are most likely to contain the material that is the substantive "heart" of the measure. Drafters should feel free to organize a bill in a different manner if it will clearly promote a better understanding of the bill by the average reader.

j. Temporary or "Transition" Provisions

A bill for an extensive code of regulation frequently must provide for the transition period before the new law is established. If the transition provisions are in a separate section at the end of the bill, it is easier to exclude from the Hawaii Revised Statutes without destroying the context and continuity of the permanent provisions.

Some examples of transition provisions are items 13 to 16 of chapter 4. They provide for a number of the details involved with the transfer of functions from one agency to another. Transition provisions generally are not codified in the Hawaii Revised Statutes because they apply only during the transition period, and thus are not permanent laws of the State.

k. Related Amendments

Amend all laws affected by the bill. For example, if an agency name is being changed, all provisions in the Hawaii Revised Statutes mentioning the agency name must be amended.

l. Specific Repeals

Example:

SECTION 10. Section ____, Hawaii Revised Statutes, is repealed. (Set forth section)

Caveat. When using the Ramseyer format, repealed sections are set forth in full. See chapter 5.

A sweeping statement saying that "all laws and parts of laws in conflict herewith are hereby repealed" does not magically eliminate those conflicts. If anything, problems are created due to the ambiguity as to just what is being

repealed. Therefore, the actual conflicts must be addressed by specifically repealing each.

m. **Exceptions, Provisos, or Saving Clauses**

Limitations on the enforceability of provisions of a bill can be classed as follows:

- (1) **Exception** - restricts the bill to a particular case; if possible, draft it as an individual section.

Example:

SECTION 9. This Act shall not apply to applicants for admission to any campus of the University of Hawaii system during the 1996-1997 academic year.

- (2) **Proviso** - removes special cases from the general enactment and provides for them specially, usually drafted within the body of a section, introduced by the word provided.

Example:

SECTION 16. This Act shall apply to all motor vehicles registered in this State on its effective date; provided that antique motor vehicles shall not be subject to the requirements of this Act until January 1, 1999.

- (3) **Saving clause** - preserves certain rights, remedies, or privileges that would otherwise be destroyed by the general enactment. The saving clause is usually used to restrict repealing bills by continuing repealed acts in force as to existing powers, inchoate rights, penalties, and pending proceedings.

Example:

SECTION 11. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun, before its effective date.

n. **Appropriation**

An appropriation section is needed in a bill if the bill provides for a new program or function that requires funds to support it, unless the funds are incorporated within the operating budget. See chapter 8.

o. **Severability**

A severability (separability) clause ("severing" invalid provisions from the rest of the body of law) probably does no more than state a principle that the courts will apply anyway. The language recommended by the Commissioners on Uniform State Laws is:

If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

See also section 1-23, HRS.

p. Question Required for Constitutional Amendments

Section 11-112, HRS, requires that any bill proposing a constitutional amendment shall contain the exact question that is to be printed on the ballot. The question shall be phrased to require a "yes" or "no" response by the voter. See Example 2-4.

q. Hawaiian Homes Commission Act; Consent of Congress to Amendments

See chapter 4, part IV.

r. Ramseyer Provision

If the Ramseyer format is used, a section should be included indicating the effect of underscoring and bracketing in the bill. See chapter 5.

s. Effective Date

Article III, section 16, of the State Constitution, provides that a bill becomes law upon the governor's signature; or, if the governor does not sign the bill then on the forty-fifth day after adjournment of the legislature sine die. The effective date on most bills is *This Act shall take effect upon its approval.*

If the drafter wishes an effective date other than the approval date it must be set forth in the bill. Many tax bills, in particular, become effective at the end or beginning of a fiscal or calendar year. Nearly all appropriation measures take effect at the beginning of a fiscal year. For further specifics, see chapter 4, section 2b.

4. Special Forms

a. Short Form Bills

A short form bill is sometimes referred to as a *vehicle* bill. Short form bills are occasionally used, primarily for convenience. This device gives a legislative committee the opportunity of examining the general idea contained in the bill before drafting all of the specific details in long form. See Appendix B for an example of a short form bill and its contents.

b. Examples of Amendments and Repeals

See Example 2-4 for an example of a proposed constitutional amendment.

See Example 2-2 for an example of a bill proposing a new general law not intended for inclusion in the Hawaii Revised Statutes.

See chapter 5, sections 3, 4, and 5, for examples of amendments to, and repeals or additions of provisions in the Hawaii Revised Statutes.

See Appendices E and F for floor amendments to a bill.

Example 2-1

EXAMPLE OF BILL AMENDING HAWAII REVISED STATUTES

H.B. or S.B. NO. _____

A BILL FOR AN ACT

RELATING TO GENERAL EXCISE TAXES.] Title

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:] Enacting Clause

Bill Section Number HRS Section Number
SECTION 1. Section 000-00, Hawaii Revised Statutes, is] Prefatory Language
amended to read as follows:

HRS Section Title
"§000-00 Exemptions, persons exempt, rules [and regulations].] Section Title
Bracketing indicates language deleted

Subsection (a) This chapter shall not apply to the following persons:

Paragraph (note capitalization)

- (1) National banks;
- (2) Corporations, companies, associations, or trusts organized for:

Subparagraph (note capitalization)

(A) The establishment and conduct of cemeteries no part of:

Clause (note capitalization)

- (i) The net earnings of which inures to the financial benefit of any private stockholder or individual; and
- (ii) The net losses of which inures to the financial loss of all private stockholders;

Subparagraph continued

provided[,] that the exemption shall apply only to the activities of the persons in the conduct of cemeteries; and

Subparagraph

(B) Any activity the primary purpose of which is to produce income, even though the income is to be

Subparagraph continued

used for or in the furtherance of the exempt activities of such persons;

Paragraph continued

provided[,] that such corporations, companies, associations, and trusts perform for the benefit of their stockholders.

Subsection

(b) The department shall establish rules [and regulations] concerning exemptions and [may] for good cause may extend the time for registration or the time for filing an application for exemption, but the extension or extensions shall not aggregate more than a total of two months.

← Language added is underscored

Subsection

(c) As used in this section "person" shall only include those entities set forth in subsection (a)(1) and (2)."

SECTION 2. Statutory material to be repealed is bracketed.]
New statutory material is underscored.

Ramseyer Provision

SECTION 3. This Act shall take effect upon its approval.]

Effective Date

INTRODUCED BY: _____

**Although quotation marks are required at the beginning and end of the section in a bill, the same quotation marks should be used for all quotations within the body of the bill as this is the way the Act will be set forth in the Hawaii Revised Statutes.*

Example 2-2

UNCODIFIED SESSION LAW; NO HRS CHAPTER OR SECTION REFERENCE

H.B. or S.B. NO. _____

A BILL FOR AN ACT

RELATING TO SKILLS TAUGHT IN THE PUBLIC SCHOOLS.] Title

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:] Enacting Clause

Bill Section Number



SECTION 1. The legislature finds that many adults and young people lack proficiency in the basic skills of reading, writing, and computation and are unable to successfully complete those tasks which are common to every-day life, such as the selection of the most economical loan, the accurate completion of an income tax return, the accurate balancing of a checking account, the most effective answers to job notices, and the understanding of such contracts as standard rental and purchase agreements. The widespread inability of both the adult and young adult population to adequately perform such tasks has led the legislature to conclude that the teaching of basic skills and their application to real-life situations must be improved.

Purpose Section (optional)

The purpose of this Act is to provide for the establishment of a citizens advisory committee on basic skills and real-life skills to advise the legislature on the kinds of skills that students graduating from public schools should possess.

SECTION 2. There is created a citizens advisory committee which shall advise the legislature on the kinds of skills and the levels of proficiency which are necessary to enable the graduates of public schools to function adequately in the adult world. The committee shall be composed of eleven members appointed by the president of the senate and the speaker of the house of representatives. The committee shall elect a chairperson and vice-chairperson from among its members. A majority of the members of the committee shall constitute a quorum. Members of the committee shall serve without compensation.

SECTION 3. The committee shall submit a report of its findings and recommendations to the legislature within ten days after the convening of the 1978 session of the legislature. Ninety days after the submission of its report to the legislature, the committee shall cease to exist.

SECTION 4. This Act shall take effect upon its approval.] Effective Date

INTRODUCED BY: _____

This form should not be used if the material is to be placed in the Hawaii Revised Statutes. Because inclusion in the Hawaii Revised Statutes is not intended, underscoring is not required even though material is new. However, bills amending uncodified Acts (e.g., if this measure were to become law, a subsequent bill amending this Act) should show changes using brackets and underscoring.

Example 2-3

UNCODIFIED SESSION LAW; APPROPRIATION MEASURE

H.B. or S.B. NO. _____

A BILL FOR AN ACT

MAKING AN APPROPRIATION FOR COMPENSATION OF CRIMINAL INJURIES.] Title

Be It Enacted by the Legislature of the State of Hawaii:] Enacting Clause

Bill Section Number



SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$, or so much thereof as may be necessary, for fiscal year 19 -19 for the purpose of compensating certain persons or their providers of services pursuant to chapter 351, Hawaii Revised Statutes.

Appropriation

SECTION 2. The sum appropriated shall be deposited in the criminal injuries compensation fund to be used for payments as authorized by the criminal injuries compensation commission. The sum appropriated shall be expended by the department of public safety for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 19 .] Effective Date

INTRODUCED BY: _____

Example 2-4

CONSTITUTIONAL AMENDMENT

H.B. or S.B. NO. _____

A BILL FOR AN ACT

PROPOSING AN AMENDMENT TO ARTICLE II, SECTION 1, OF THE HAWAII CONSTITUTION, TO CHANGE THE RESIDENCE QUALIFICATION FOR VOTING.

Title

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

Enacting Clause

Bill Section Number



SECTION 1. The purpose of this Act is to propose an amendment to Article II, section 1, of the Constitution of the State of Hawaii to reduce the residence qualification for voting from one year to six months.

Purpose (optional but advisable)

SECTION 2. Article II, section 1, of the Constitution of the State of Hawaii is amended to read as follows:

"QUALIFICATIONS

Section 1. Every citizen of the United States who shall have attained the age of eighteen years, have been a resident of this State not less than [one year] six months next preceding the election, and be a voter registered as provided by law, shall be qualified to vote in any state or local election."

SECTION 3. The question to be printed on the ballot shall be as follows:

"Shall the residency qualification for voting in the State of Hawaii be reduced from one year to six months?"

Constitutional Question

SECTION 4. Constitutional material to be repealed is bracketed. New constitutional material is underscored.

Ramseyer Provision

SECTION 5. This amendment shall take effect upon compliance with article XVII, section 3, of the Constitution of the State of Hawaii.

Effective Date

INTRODUCED BY: _____

Chapter 3

STYLE, WORDS, AND GRAMMAR

This chapter is designed to familiarize the drafter with the general style conventions followed in Hawaii's statutes, most notably, the Hawaii Revised Statutes. The Hawaii Revised Statutes, as Hawaii's official codified laws of the State, is arranged according to broad, general subject areas. The state budget and other pure appropriation measures are not published in the Hawaii Revised Statutes because although they are general laws of the State, they only apply for the period of the appropriation (usually one or two years) and are therefore not permanent. Even "substantive" laws such as tax or regulatory measures are not codified if not enacted permanently (e.g., if the enacting measure provides for automatic repeal on a specified date).

Drafters need to be familiar with the style conventions because most bills propose additions, deletions, or amendments to one or more provisions of the Hawaii Revised Statutes. As such, material from the Hawaii Revised Statutes usually provides the basic working material for the bill. Further, to the extent practicable, the Hawaii Revised Statutes style conventions are also followed in other measures published solely in the Session Laws of Hawaii that are not intended or appropriate for codification in the Hawaii Revised Statutes.

The Hawaii Revised Statutes is organized into a series of chapters, each of which is divided into sections. While there are other levels of organization (for instance, groups of sections within a chapter may be organized into a "part" and material in a section may be further divided into four additional levels) the key components for purposes of identification are "chapters" and "sections". Each section is assigned a number which consists of two components: the number of the chapter; and the number of the section within the chapter. Accordingly, sections 171-1, 171-2, and 171-3 are three of the first sections within chapter 171. New sections may later be inserted by the revisor of statutes between consecutively numbered sections through the use of decimals (e.g., 171-2.5, 171-2.51).

Example 2-1 is an example of a bill that amends a section of the Hawaii Revised Statutes. Example 2-1 also displays the "anatomy" of the section being amended, showing the different levels of organization that may be contained within a section. Drafters should become familiar with the different levels of organization within sections to ensure that internal cross references within sections are accurate.

Caveat. The following are presented only as general guides for the drafter. The drafter may deviate from these general guides if the deviation enhances clarity and brevity.

1. Names of Executive Departments, Department Heads, and Other Government Agencies

The proper title of existing state departments and department heads is as follows:

- a. Department of Accounting and General Services - Comptroller (see section 26-6)
- b. Department of Agriculture - Board of Agriculture - Chairperson of the Board of Agriculture (see section 26-16)

- c. Department of the Attorney General - Attorney General (see section 26-7)
- d. Department of Budget and Finance - Director of Finance (see section 26-8)
- e. Department of Business, Economic Development, and Tourism - Director of Business, Economic Development, and Tourism (see section 26-18)
- f. Department of Commerce and Consumer Affairs - Director of Commerce and Consumer Affairs (see section 26-9)
- g. Department of Defense - Adjutant General (see section 26-21)
- h. Department of Education - Board of Education - Chairperson of the Board of Education - Superintendent of Education (see section 26-17)
- i. Department of Hawaiian Home Lands - Hawaiian Homes Commission - Chairperson of the Hawaiian Homes Commission (See section 26-17)
- j. Department of Health - Director of Health (see section 26-13)
- k. Department of Human Resources Development - Director of Human Resources Development (see section 26-5)
- l. Department of Human Services - Director of Human Services (see section 26-14)
- m. Department of Labor and Industrial Relations - Director of Labor and Industrial Relations (see section 26-20)
- n. Department of Land and Natural Resources - Board of Land and Natural Resources - Chairperson of the Board of Land and Natural Resources (see section 26-15)
- o. Department of Public Safety - Director of Public Safety (see section 26-14.6)
- p. Department of Taxation - Director of Taxation (see section 26-10)
- q. Department of Transportation - Director of Transportation (see section 26-19)
- r. University of Hawaii - Board of Regents - Chairperson of the Board of Regents - President of the University of Hawaii (see section 26-11)
- s. For the correct names of other administrative agencies and their heads, check the Hawaii Revised Statutes.
- t. For the correct names of county agencies and their heads, check the appropriate county charter.

2. Words and Grammar

- a. Use words that are plain, clear, well understood, and not ambiguous. Do not use unnecessary words. Do not use the same word or phrase in different contexts. Do not use synonyms.
- b. Use the present tense and indicative mood: Use *if it is necessary* instead of *if it shall be necessary*; use *whoever violates* instead of *whoever shall violate*. Avoid the use of the passive voice.
- c. Use *may* to express a power or privilege; *shall* to express a duty, obligation, or prohibition. Use *the comptroller may* instead of *the comptroller is hereby authorized*; *the governor may*, instead of *it shall be lawful for the governor to*. Use *shall* instead of the phrases *is hereby authorized and directed*, or *it is the duty*. Use *will* to express future tense, not as a substitute for *shall*. Do not use *must* when meaning *shall*. Use *must* when writing in the imperative mood. Avoid the use of *should* as a step between *may* and *shall*--there is no middle ground.
- d. Avoid couplets: use *void* instead of *null and void*.
- e. Use the singular instead of the plural. The singular includes the plural. See section 1-17, HRS.
- f. Gender. Although the masculine includes the feminine, see section 1-17, HRS, do not use *he* or *she*, *his* or *hers*, *they* or *theirs*, instead use the antecedent noun or use the word *person* or *individual* or other neuter term. Do not use words such as *chairman* and *salesman*, use gender neutral terms such as *chairperson* and *salesperson*. See the examples in item 13i of this chapter.
- g. Do not use *and/or*. See section 1-18, HRS. Use *or both*, for example, *this or that, or both, or this and that, or both*.
- h. Do not use *said* as an adjective.

3. Sections and Paragraphs

- a. Keep sentences and paragraphs as short as possible, but do not sacrifice clarity for brevity.
- b. Divide long and involved sections into shorter sections or subsections.
- c. When necessary to subdivide a section, a specific format is used to label the subdivisions. The Hawaii Revised Statutes uses the following divisions and designations:

subsection -- (a), (b), (c), etc.

Subsections are the principal divisions of a section and deal with discrete elements of the section. Subsections consist of one or more grammatically complete paragraphs.

paragraph -- (1), (2), (3), etc.

Paragraphs, in the statutory drafting sense, are used to break down a subsection that covers a number of contingencies, alternatives, requirements, or conditions. Note that the designation (1), (2), (3), etc. is also used for itemizing lists.

subparagraph -- (A), (B), (C), etc.

Subparagraphs are divisions of a paragraph. Further subdivision should be avoided.

clause -- (i), (ii), (iii), etc.

Clauses are divisions of a subparagraph and are to be used only where unavoidable, e.g., in a complex tax section, such as section 237-13, HRS.

- d. Do not use the designations (a), (b), etc. to list items (but see caveat below). Reserve them to designate complete subsections. When designating a tabulation in a section that has no subsections use (1), (2), etc. See Example (3) of chapter 6 on how to determine whether a section is divided into subsections.
- e. An example of the prevalent format of the division and designation thereof in a section is set forth in Example 2-1.
- f. References. When referring to a subdivision of a *different* section, simply refer to the section and indicate the particular subdivision. For example, *section 37-71(c)(1)(D)(i)*. When referring to two subdivisions within a subsection, refer to the section in singular form: *section 37-71(c)(1) and (2)*.

If referring to another subdivision in the *same* section, include the highest subdivision needed to make the reference clear, e.g., subsection (d)(2). A reference to "paragraph (2)" means paragraph (2) of that same subsection; a reference to "subparagraph (B)" means subparagraph (B) of that same paragraph, and so forth.

Caveat. The Penal Code, the Uniform Commercial Code, and other uniform laws differ from the above prevalent usage in the Hawaii Revised Statutes concerning the division and designation and should be consulted when drafting.

The Hawaii Rules of Evidence also differs from the above in that each rule is a large subdivision of an Hawaii Revised Statutes section. For the method of amending the Rules, see chapter 5 on the Ramseyer format.

4. Numbering of Sections and Chapters

- a. In adding new chapters and sections, leave the numbering to the Revisor of Statutes. See section 23G-15, HRS. See chapter 5, section 4b(1) to (3), for examples of proper wording.
- b. **DO NOT** renumber the sections following a repealed section. This can create problems by making cross references from other sections inaccurate.

5. Section Headings

- a. All sections should have headings.
- b. Headings should be short; use phrases rather than sentences.
- c. In a compound heading the several coordinate subjects are separated by semicolons.

6. Tabulation

- a. Each item in the tabulated enumeration must be responsive in substance and in form to the introductory language of the enumeration.
- b. If the sentence of which an enumeration is a part continues beyond the end of the enumeration, the part of the sentence that follows it must be appropriate to each item and must be set apart from the last enumerated item.

Example:

If two or more persons conspire:

- (1) To commit any offense;
- (2) To instigate or incite one or more persons to commit any offense;
- (3) To bring or maintain any suit or proceeding knowing it to be groundless; or
- (4) To cause another or others to be arrested, charged, or indicted for any offense, knowing them to be innocent thereof;

each shall be guilty of conspiracy.

Caveat. Do not include more than one list of enumerated items within the same subsection. This makes cross-references ambiguous. To avoid the problem, place each list within separate subsections. See examples in section 6b of chapter 6.

7. Punctuation

- a. Punctuate carefully. Recast the sentence if a change in punctuation might change its meaning.
- b. In a series of three or more items, insert a comma before the conjunction and the final item. See chapter 6, example 1.

8. Capitalization

- a. Use capitals sparingly. Generally, designations of state and county government officers and agencies are not capitalized. References to divisions of the revised statutes or the state constitution are not capitalized.

Examples:

...as provided in chapter 321.

...as provided in section 321-10.

...as provided in article VIII, section 3 of the state constitution.

- b. Capitalize *Hawaii* and other place names.
- c. Capitalize *President of the United States* and *Federal Social Security Act*, other federal or state acts, and departments and officers of the United States government, such as the *United States Department of Housing and Urban Development* and *Secretary of State*.

But federal programs such as *medicare* or *supplemental security income* should be lower case.

- d. Capitalize names of private organizations such as the American Red Cross and the Legal Aid Society of Hawaii.
- e. Do not capitalize *state* unless it refers to the State of Hawaii or a particular state (governor of the *State*). Do not capitalize *state* if it is used as an adjective (*state* governor, *state* archives), except when used in the possessive case and referring to the State of Hawaii or a particular state (*State's* fiscal condition).

9. Reference to Federal Law

- a. Refer to the Internal Revenue Code of 1986, as amended.
- b. Refer to Public Law or Public Statute, as appropriate:

Example:

Section 8 of the United States Housing Act of 1937 (chapter 856, 50 Stat. 88), as amended.

OR

Mortgage Subsidy Bond Tax Act, P.L. 96-499.

- c. Citations to United States Code and the Code of Federal Regulations should be as follows, depending upon whether the citations are used in the text, or used parenthetically:

Example:

In Text

...shall be as provided in title 21 United States Code section 2475.

Parenthetically

...shall be as provided in P.L. 99-247 (21 U.S.C. 2475).

10. Numbers

- a. Spell out numbers generally.
- b. Leave out figures where they are merely repetition of written words.
- c. Use Arabic numbers for dates, e.g., *January 1, 1983*, not *first of January, nineteen hundred eighty-three*.
- d. Sums of money: Use figures for 1 cent to 99 cents; the word *cent(s)* to be spelled out. Use figures for dollars (e.g., *\$5,000,000*, not *\$5 million*); omit decimal and zeros from even dollar amounts--*\$1, \$1.25, \$1,500*.
- e. Use Arabic numbers for references to section and act numbers.

11. Definitions

- a. Use *means* instead of *shall mean* or *shall refer to and means*.
Use *means* even when the term being defined is plural (e.g., *bonds*).
- b. For a legal definition that is exhaustive, use *means*; for a definition that is partial, use *includes*. If neither of these is accurate, the definition may use *refers to*.

Never use the ambiguous expression *means and includes*.

- c. If a definition applies to only one section, incorporate the definition in that section and not in the general definition section for a chapter.
- d. Do not place substantive provisions in definition sections. Do not include artificial concepts in definition sections.
- e. *Person* is defined by general law. See section 1-19, HRS.
- f. Definitional sections and subsections should set forth definitions in alphabetical order to facilitate in finding a definition.
- g. The definitions in a section should not be numbered and should end in a period to facilitate later amendment. See, for example: section 587-2, HRS.

12. Provisos; Exceptions; Limitations

- a. Use provisos only for taking special cases out of a general enactment and providing specially for them. If proviso is used, use ; *provided that* instead of ; *provided, however, that*.
- b. Use *except* for exceptions, not *provided that*.
- c. State the circumstance in which a rule is to apply before stating the rule itself.

13. Choice of Other Words and Phrases

- a. Leave out *of Hawaii* or *of the State* after titles of officers, departments, etc., if not ambiguous.
- b. *County* includes city and county. See section 1-22, HRS.
- c. Use specific section or subsection reference instead of *preceding section* or *following section* or *hereinbelow* or *herein*.
- d. Use *per cent* instead of *percent*, *percentum*, *%*.
- e. Leave out inclusive after section to section . See section 1-26, HRS.
- f. Use *this section* instead of *the provisions of this section*.
- g. Use the most compact identification of sections or subsections: e.g., *section 12-85* or *section 12-85(a)(4)*, instead of *section 85 of chapter 12* or *subsection (a)(4) of section 12-85* or *subsection 12-85(a)*.

Leave out *of chapter 12*, or *of the Hawaii Revised Statutes*, or similar references that are superfluous when the reference is in language to be codified in the Hawaii Revised Statutes. If the reference is in language in a Session Law that is not to be codified, refer to the section and to Hawaii Revised Statutes. See example in chapter 4, item 7 (fourth example).

STYLE, WORDS, AND GRAMMAR

- h. Use a *year* instead of *per annum*.
- i. Other words and phrases that should be avoided and certain preferred usages are as follows (see item 16 for gender-neutral terms):

Do Not Use	Use
absolutely null and void	void
aforesaid	-
and/or	-
are hereby required	shall
at the time	when
be and the same is hereby	is
be deemed to be	is
be subject to forfeiture	-
constitute and appoint	appoint
due to the fact that	because
following section	section 2 (specific number)
for the reason that	because
forthwith	-
from July 1	after June 30
henceforth	-
hereafter	-
hereby	-
herein as provided	as provided in
hereunder	under this section
if he shall have complied	if the person complies
in case	if
in case of	where
in cases in which	when
in order to	to
in the event that	if
is applicable	applies
is defined and shall be construed to mean	means
is hereby authorized	may
is hereby authorized and directed	shall
is hereby authorized and empowered	may
is hereby authorized and it shall be his duty	shall
is hereby created	there shall be
is hereby required	shall

Do not use:	Use:
is hereby vested with power and authority and it shall be its duty to	shall
member of a partnership	partner
no later than June 30 null and void	before July 1 void
on and after July 1 on his own application	after June 30 at the person's request
per centum preceding section	per cent section 1 (specific number)
prior to promulgate...rules provided, however, provisions of law	before adopt...rules provided law
rules and regulations	rules
said shall be construed to mean shall mean should sole and exclusive State of Hawaii subsequent to	the, that, this means means may exclusive State after
under the provisions of utilize	under use
whatsoever wilful negligence	- recklessness

14. Spelling

Generally, spelling should follow the first preferred spelling shown in the dictionary. For example, the Hawaii Revised Statutes uses:

- a. *Canceled* instead of *cancelled*.
- b. *Marijuana* instead of *marihuana*.
- c. *Moneys* instead of *monies*.

- d. *Wilful* instead of *willful*.

15. Style Used in the Constitution

The style used in the Constitution varies from the Hawaii Revised Statutes as follows:

- a. The last comma before a conjunction in a series of three or more items is to be omitted.
- b. Punctuation marks *always* appear on the inside of quotation marks.
- c. The capitalization of Article and Section numbers is as follows:
...established by Section 2 of Article XVIII...
...established by section 2 of this article...
...established by this section...
- d. But if a statute refers to a constitutional provision, use lower case. See item 8a.
- e. Note on capitalization: *University of Hawaii* and *Office of Hawaiian Affairs* are capitalized.
- f. The word *percent* within the Constitution is one word.

16. Use of Gender-Neutral Terms

Use gender-neutral (*e.g., the person*) rather than gender-specific (*e.g., he, she*) terms wherever possible.

Exceptions:

- a. Terms having long established legal significance such as landlord, manslaughter, or materialman's lien.
- b. When referring specifically to an item or category having a gender-specific term. For example, "airman" and "seaman" are titles or ranks used by the United States Air Force and Navy. Use of those terms in referring to those specific categories is appropriate, even though not gender-neutral.

Terms that should be avoided and preferred usages are as follows:

Generally

Do not use:

businessman
chairman

Use:

business person
chairperson, chair

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Do not use:

clergyman
congressman, congresswoman
councilman
draftsman
fireman
fisherman
flagman
foreman
he/she/him/her

herself/himself
journeyman

juryman
lawman
layman
maid
maiden name
mailman
man (noun)
man (verb)
man-hour
man-induced
mankind

manlift
manmade
manpower

middleman
nurseryman
patrolman
policeman
repairman
salesman
serviceman (military)
serviceman (nonmilitary)
spokesman
statesman
statesmanlike
statesmanship
vice-chairman
warehouseman
watchman
woman
workman
workmanlike

Use:

clergy
member of Congress, representative
council member
drafter
firefighter
commercial marine licensee, fisher
flagperson
foreperson
the person, the (relevant noun, e.g.,
judge)
the person's self, oneself
journey worker, journey + (relevant
noun, e.g., *plumber*)

juror
law enforcement officer
layperson, laymember
domestic worker
birth name
mail carrier, postal worker
person, individual, human, humanity
staff, operate
worker hour
artificially or synthetically induced
humanity, humans, human beings,
people, persons
elevator, lift
artificial, synthetic
personnel, work force, labor force,
human resources

intermediary
nursery worker or operator
patrol officer
police officer
repair person
salesperson
service member
service person
spokesperson
diplomat, leader
diplomacy
diplomacy, leadership
vice-chairperson, vice-chair
warehouse worker
guard, security guard
person, individual, human, humanity
worker
skillful, efficient

Family Status

Do not use:

daughter, son
stepdaughter, stepson
sister, brother
mother, father
stepmother, stepfather
wife, husband
widow, widower
grandmother, grandfather

Use:

child
stepchild
sibling
parent
stepparent
spouse
surviving spouse
grandparent

"-Ess" and "-Trix" Endings

The feminine gender suffixes "-ess" and "-trix" should be avoided. Among the objections to these terms are that they perpetuate the notion that the male is the norm and the female is a deviation or secondary classification, and that they specify a person's sex where gender is irrelevant.

Do not use:

administratrix
benefactress
executrix
heiress
mediatrix
prosecutrix
stewardess
testatrix
waitress

Use:

administrator
benefactor
executor
heir
mediator
prosecutor
flight attendant
testator
waiter

17. Acronyms

Do not use acronyms (e.g., *DOH*, *DCCA*) in the text of statutes. While convenient to the drafter, they tend to clutter the text, making it difficult for the uninitiated. This problem is not cured by defining the acronym.

The following is an example of how acronyms can develop into an impenetrable mass, which would be difficult to read even if the terms had been defined.

Guidance to USCINCPAC OPCON forces on application of CJCS SROE, USCINCPAC Theater-Specific Rules and CINCUNC/CFC Armistice Period ROE shall be implemented in USPACOM by USCINCPAC regulation S3710.2G.

Chapter 4
SOME COMMON STATUTORY PROVISIONS
AND PROBLEM AREAS

Part I. Generally

The following suggested forms and examples of statutory language for certain situations, often faced by bill drafters, are taken from existing law. The suggestions, sometimes referred to as *boilerplate*, are offered to assist drafters to produce bills efficiently. In addition to their efficiency value, these forms provide the bill drafter with instrumental precedent.

Caveat. Care must be taken in using any standardized provision; it cannot properly be used indiscriminately or blindly but must be examined carefully to see whether it fits the situation or needs modification.

1. Penalties

a. Criminal Penalties

Any person who violates this section shall be guilty of a misdemeanor.

OR

Violation of this section shall be a class C felony.

When establishing criminal penalties, use the categories of offenses established in the Penal Code. These categories are as follows:

- (1) Petty Misdemeanor - Up to \$1,000 fine and 30 days imprisonment. See sections 706-640 and 706-663.
- (2) Misdemeanor - Up to \$2,000 fine and 1 year imprisonment. See sections 706-640 and 706-663.
- (3) Class C felony - Up to \$10,000 fine and 5 years imprisonment. See sections 706-640 and 706-660.
- (4) Class B felony - Up to \$25,000 fine and 10 years imprisonment. See sections 706-640 and 706-660.
- (5) Class A felony - Up to \$50,000 fine and 20 years imprisonment. See sections 706-640 and 706-659.

For particular crimes, extended or mandatory sentences, higher fines, young adult defendants, etc., see the Penal Code, chapters 701 to 712, Hawaii Revised Statutes.

SOME COMMON STATUTORY PROVISIONS AND PROBLEM AREAS

Do not simply establish specified fines and prison terms without categorizing the offense (e.g., "Violations shall be punishable by X years imprisonment, a fine of \$400, or both).

A drafter desiring to impose maximum penalties that do not match those specified in the Penal Code categories can do so while using the categories. Use the maximum term of imprisonment as the basis for categorizing.

Example:

Violation of this section shall be a class C felony; provided the maximum term of imprisonment shall be not more than three years, and the maximum fine shall be not more than \$100,000.

Note. A penalty that contains no possibility of imprisonment might be easier to enforce if classified as a civil penalty.

b. Civil Penalties

Any person who violates this chapter or any rule adopted by the department pursuant to this chapter shall be fined not more than \$10,000 for each separate offense. Each date of violation shall constitute a separate offense. Any action taken to impose or collect the penalty provided for in this subsection shall be considered a civil action.

See also Penal Code, sections 701-107 and 706-640 concerning violations.

2. Effective Dates

a. Generally

Unless otherwise required, bills are normally drafted so as to take effect upon approval. "Upon approval" means the date the bill is signed by the governor, or passage of the deadline after which the bill takes effect without the governor's signature.

Except for emergencies (see Appropriation Measures Passed Before Budget in chapter 8), appropriation bills are drafted to take effect on July 1 to coincide with the beginning of the State's fiscal year.

Consideration should also be given to the time that may reasonably be required for affected agencies and the public to become aware of and adjust to the changes. For example, a bill making it a crime to own a car that is painted any color other than black would catch many people unaware if made effective upon approval. Having the bill take effect on September 1 or January 1 of the following year, would provide some time for notice to the public to paint their cars.

b. For Tax Measures

For administrative purposes or to provide enough time to prepare for the administration of a new tax law, the effective date for tax measures should be either on January 1 or July 1 of a particular year.

- (1) Generally, tax measures affecting the Income Tax Law (chapter 235) are effective on January 1, although corporate tax increases may begin on July 1. Also beginning in January are amendments to the Public Service Company Tax Law (chapter 239), the Public Utilities; Franchise Tax Law (chapter 240), the Taxation of Banks and other Financial Corporations Law (chapter 241), and the taxation of insurance premiums (section 431:7-202).

This Act, upon its approval, shall apply to taxable years beginning after December 31, 19__.

- (2) Generally, tax measures affecting the Estate and Transfer Tax Law (chapter 236D), the General Excise Tax Law (chapter 237), the Transient Accommodations Tax Law (chapter 237D), the Use Tax Law (chapter 238), the Fuel Tax Law (chapter 243), the Liquor Tax Law (chapter 244D), the Tobacco Tax Law (chapter 245), and the Conveyance Tax Law (chapter 247) may take effect on July 1.

This Act shall take effect on July 1, 19__.

c. Retroactive Effective Date

This Act, upon its approval, shall take effect retroactive to January 1, 19__.

See section 1-3, HRS.

d. Effective Dates for Different Parts of the Same Bill

Example:

This Act shall take effect upon its approval; provided that section 3 shall take effect on October 1, 19__, and section 5 shall take effect on July 1, 19__.

4. Rulemaking Powers

a. Generally

The director (department, board, commission, etc., as appropriate) shall adopt rules pursuant to chapter 91 necessary for the purposes of this chapter.

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Caveat. Chapter 91, Hawaii Revised Statutes, provides that rules may be adopted, amended, or repealed. Rules are not promulgated, nor are regulations provided by chapter 91. Use *regulations* only when referring to federal regulations.

b. Expedited Rulemaking

Rules adopted to implement this chapter shall be exempt from the public notice and public hearing requirements of chapter 91.

Note. This provision exempts the agency from the comparatively time consuming aspects of the Administrative Procedure Act. With this exemption the agency would need only to have the proposed rules approved by the governor and filed with the lieutenant governor. For an example of a law that also exempts the proposed rules from gubernatorial approval, see section 103D-202, HRS.

5. Disposition of Public Moneys Received

All fees received by the department pursuant to this section shall be paid into the general fund of the State.

6. Lapsing of Appropriation

a. Generally

An appropriation lapsing provision is not necessary for general obligation bond funds or general funds under Article VII, section 11, of the State Constitution. Appropriations from other funds should be lapsed, see chapter 8, section 4f.

b. Nonlapsing of Appropriation

The appropriation made by Act 252, Session Laws of Hawaii 1994, under DEF 112 (Services to Veterans), for the burial of Filipino World War II veterans, shall not lapse at the end of the fiscal year for which the appropriation is made; provided that all moneys from the appropriation that are unencumbered as of June 30, 1996, shall lapse as of that date.

7. Relationship to Another Pending Bill

If S.B. No. _____ is passed by the legislature during this Regular Session of 19__, whether before or after the effective date of this Act, the corresponding provisions of S.B. No. _____ shall be amended to conform to this Act.

OR

All acts passed by the legislature during this Regular Session of 19__, whether enacted before or after the effective date of this Act,

shall be amended to conform to this Act unless such acts specifically provide that this Act is being amended.

OR

This Act shall take effect on January 1, 19__, only if H.B. No. _____ in any form passed by the legislature, Regular Session of 19__, becomes an Act.

OR

The substantive provisions of this Act shall amend any other conflicting Act enacted by the Regular Session of 19__, but nonsubstantive amendments made by this Act shall not supersede any substantive amendments made to section _____, Hawaii Revised Statutes, by any other Act enacted by this Regular Session of 19__.

OR

in a codification bill intended to restate existing law without substantive change:

Any act relating to the _____ passed by the legislature during this Regular Session of 19__ shall be effective according to its terms, notwithstanding the passage of this Act, and any provision of this Act which is contrary to such act shall be amended to conform to that act, regardless of the effective date of that act. The revisor of statutes shall incorporate the terms of any such act into their appropriate places in this Act.

8. Exception for Unique Situation

Notwithstanding any other law to the contrary, any antique motor vehicle shall be issued a special number....

9. Application of Law to a Specific County

In any county with a population of 200,000 or more....

Caveat. Article VIII, section 1, of the State Constitution prevents the application of a substantive law to a county by name. It also limits the repeal or amendment of those provisions that were enacted before the Constitution was adopted and that specifically apply to a county by name, such as chapters 61 to 70, HRS, as they existed in the 1985 replacement volume. See Attorney General Opinion No. 62-11. These statutes may be superseded by general amendment relating to all counties or to counties with a certain population, see section 46-81, HRS, Act 263, Session Laws of Hawaii 1988, and Attorney General Opinion No. 87-1.

10. **Establishment of a Board or Commission**

a. **Generally**

There is established within the department of _____ for administrative purposes the _____ commission consisting of _____ members appointed by the governor as provided in section 26-34.

Section 26-34, HRS, covers advice and consent of the senate, terms of appointment, staggered terms, limitation on appointments, filling of vacancies, removal, and suspension.

b. **Who Should Appoint the Members?**

When establishing a board in the executive branch, other than an advisory board, do not designate an appointing authority from a different branch of government, e.g., the legislative. (See SSCR 53 on S.B. No. 303 and HSCR 455 on H.B. No. 339, Regular Session of 1971, for testimony of the Attorney General on this point.) Different branches of government may make nominations for appointment to the executive from which the executive must choose.

Example:

_____ of the members shall be appointed from a list of nominees submitted by the speaker of the house of representatives and _____ shall be appointed from a list of nominees submitted by the president of the senate.

c. **Professional and Vocational Licensing Boards**

When establishing a board to regulate and license a profession or occupation, some of the members of the board will be required to be licensed members of the profession or occupation being regulated. In providing for the appointment of licensed members to the initial board, such members must be exempted from the licensing requirement as the licensing mechanism will not have been established until the board is in operation.

d. **Attachment for Administrative Purposes**

Hawaii generally does not have "free standing" boards and commissions. All are placed within a department or other agency for administrative purposes. However, Article V, section 6, of the state constitution provides that temporary commissions or agencies for special purposes need not be allocated within principal departments. For example, see Act 84, Session Laws of Hawaii 1995.

11. Employment or Appointment of Noncivil Service Personnel

The commission may employ, without regard to chapters 76 and 77, and at pleasure dismiss such persons as it finds necessary for the performance of its functions and fix their compensation.

OR

The governor shall appoint, without regard to chapters 76 and 77, a _____ who shall serve at the pleasure of the governor. The _____ salary shall be within the range of salaries paid deputy directors of the departments of the state government. The _____ shall be a member of the state employees' retirement system and shall be eligible to receive the benefits of any state or federal employee benefit program generally applicable to officers and employees of the State.

Note. Employees or appointees should also be exempted from chapter 89 if they are to be exempted from collective bargaining for public employees.

12. No Compensation for Members of Boards and Commissions

The members of the _____ commission shall serve without compensation but shall be reimbursed for expenses, including travel expenses, necessary for the performance of their duties.

13. Transfer of Officers and Employees from One Agency to Another

All rights, powers, functions, and duties of the _____ are transferred to the _____.

All officers and employees whose functions are transferred by this Act shall be transferred with their functions and shall continue to perform their regular duties upon their transfer, subject to the state personnel laws and this Act.

No officer or employee of the State having tenure shall suffer any loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefit or privilege as a consequence of this Act, and such officer or employee may be transferred or appointed to a civil service position without the necessity of examination; provided that the officer or employee possesses the minimum qualifications for the position to which transferred or appointed; and provided that subsequent changes in status may be made pursuant to applicable civil service and compensation laws.

An officer or employee of the State who does not have tenure and who may be transferred or appointed to a civil service position as a consequence of this Act shall become a civil service employee without the loss of salary, seniority, prior service credit, vacation, sick

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leave, or other employee benefits or privileges and without the necessity of examination; provided that such officer or employee possesses the minimum qualifications for the position to which transferred or appointed.

If an office or position held by an officer or employee having tenure is abolished, the officer or employee shall not thereby be separated from public employment, but shall remain in the employment of the State with the same pay and classification and shall be transferred to some other office or position for which the officer or employee is eligible under the personnel laws of the State as determined by the head of the department or the governor.

14. Transfer of Functions Between Agencies; Continuity of Rules, Policies, etc.

All rules, policies, procedures, guidelines, and other material adopted or developed by the department of transportation to implement provisions of the Hawaii Revised Statutes which are reenacted or made applicable to the department of land and natural resources by this Act, shall remain in full force and effect until amended or repealed by the board of land and natural resources pursuant to chapter 91, Hawaii Revised Statutes. In the interim, every reference to the department of transportation or director of transportation in those rules, policies, procedures, guidelines, and other material is amended to refer to the department of land and natural resources or chairperson of the board of land and natural resources as appropriate.

(See Act 272, Session Laws of Hawaii 1991, §28, third paragraph.)

15. Transfer of Functions; Effect on Deeds, Contracts, Permit, etc.

All deeds, leases, contracts, loans, agreements, permits, or other documents executed or entered into by or on behalf of the department of transportation pursuant to the provisions of the Hawaii Revised Statutes, which are reenacted or made applicable to the department of land and natural resources by this Act, shall remain in full force and effect. Effective July 1, 1992, every reference to the department of transportation or the director of transportation therein shall be construed as a reference to the department of land and natural resources or the board of land and natural resources as appropriate.

(See Act 272, Session Laws of Hawaii 1991, §28, fourth paragraph.)

16. Transfer of Records and Equipment Between Agencies

All appropriations, records, equipment, machines, files, supplies, contracts, books, papers, documents, maps, and other personal property heretofore made, used, acquired, or held by the department of _____

relating to the functions transferred to the department of _____ shall be transferred with the functions to which they relate.

17. Providing Against the Impairment of Federal Funds and Bonds

It is the intent of this Act not to jeopardize the receipt of any federal aid nor to impair the obligation of the State or any agency thereof to the holders of any bond issued by the State or by any such agency, and to the extent, and only to the extent, necessary to effectuate this intent, the governor may modify the strict provisions of this Act, but shall promptly report any such modification with reasons therefor to the legislature at its next session thereafter for review by the legislature.

OR

If any part of this Act is found to be in conflict with federal requirements that are a prescribed condition for the allocation of federal funds to the State, the conflicting part of this Act is inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and this finding does not affect the operation of the remainder of this Act in its application to the agencies concerned. The rules under this Act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the State.

18. Drop-dead Provisions

a. New Legislation

In some instances, the legislature may wish to enact legislation for a limited period of time. The time limit may be attached in order to allow the legislature to review its effect or the manner in which the legislation has worked, or the legislation may only be necessary for a limited period of time.

(1) Act 277, Session Laws of Hawaii 1980:

SECTION 5. This Act shall take effect on July 1, 1980, and shall be repealed as of June 30, 1984.

(2) Act 275, Session Laws of Hawaii 1984:

SECTION 6. This Act shall take effect upon its approval and shall be repealed on June 30, 1985.

b. Temporary Amendments to Existing Statutes

See Part III of this chapter for a discussion of the more complex issue of statutory language that is amended for a temporary period and then reverts to the original form.

19. Act Contingent Upon Ratification of Constitutional Amendment

Constitutional amendments must be ratified by the voters at a general election before they can take effect. A bill to implement a constitutional provision that has not yet been ratified cannot itself become effective before the constitutional provision.

SECTION _____. This Act shall take effect upon its approval and upon ratification of a constitutional amendment requiring the election of the attorney general.

20. Impairment of Contracts

This Act shall not be applied so as to impair any contract existing as of the effective date of this Act in a manner violative of either the Hawaii Constitution or Article I, section 10, of the United States Constitution.

21. Carryover of Appropriated Funds Into Second Year of Fiscal Biennium

The [agency or program name] may carry over unexpended and unencumbered funds into the second year of a fiscal biennium. At the end of the fiscal biennium, the [agency or program name's] unexpended and unencumbered funds shall be returned to the general fund in accordance with section 40-66, Hawaii Revised Statutes.

22. Special or Revolving Funds

a. Establishment

(a) There is established in the state treasury the XYZ special (or revolving) fund, into which shall be deposited:

[List sources of revenue to be earmarked for fund, e.g.]

- (1) All revenues from the operations of the ...
- (2) All proceeds from revenue bonds issued by ...
- (3) Appropriations made by the legislature to the fund.

(b) Moneys in the XYZ special (or revolving) fund shall be used for the following purposes:

[List purposes for which use of proceeds of fund are authorized]

b. Transfer of Excess Amounts to General Fund

All unexpended and unencumbered moneys remaining in the [name] fund at the close of each fiscal year which are deemed, by

the director of finance, to be in excess of the moneys necessary to carry out the purposes of this section over the next following fiscal year shall lapse to the credit of the state general fund.

c. **Minimum and Maximum Limits**

Any amount to be deposited into the special (revolving) fund from the revenues collected under this chapter that causes the special (revolving) fund to exceed \$ shall be deposited into the general fund. No further deposits from the revenues collected under this chapter shall be made into the special (revolving) fund until the balance of the special (revolving) fund drops below \$, in which event the two and one-half per cent (or other specified amounts) of the revenues collected under this chapter shall be deposited into the special (revolving) fund until the balance equals \$

23. Numerous Instances of Identical or Very Similar Amendments

In some instances, where changes are being made to a number of sections, and are the only changes being made in each section, the amendments can be made by listing the sections to be amended and describing the change to be made. This is easier than setting out the text of each section or subsection affected.

Example:

SECTION . Section 000-0, 000-1, 000-2, 101-10, 125-35, and 247-9, Hawaii Revised Statutes, are amended by substituting the word "_____", or like term, wherever the word "_____ ", or like term, appears, as the context requires.

See Act 269, SLH 1985, §§49-55. Among other things, this Act changed the bank examiner to the commissioner of financial institutions, and transferred certain functions from the director of regulatory agencies to the commissioner.

See also Act 65, SLH 1988, §§1, 2, changing (among other things) "horizontal property regime" to "condominium property regime".

Caveat. in using this approach, each change must be capable of being made by direct word-for-word substitution. Amend in the usual manner, by setting out the text, for any changes that cannot meet this requirement.

24. Cross-Referencing Multiple New Sections Added to a Chapter

In these situations, accurate cross-referencing is achieved by using letters to designate the respective new sections. Rather than having several sections all numbered "section 123- ", the respective sections may instead be numbered 123-A, 123-B, 123-C, 123-D, and so forth. This allows cross-references to be made to sections that are specifically identified.

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Where this system is used, the following provision should be included toward the end of the bill:

SECTION _____. In codifying the new sections added by sections ____ and ____ [*and referenced in sections ____ and ____] of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

**[Use only if the "alphabetized" section numbers are referred to in other sections of the bill, such as amended HRS sections, transition provisions, or effective date.]*

25. Recurring Measures

In addition to the above suggestions, reference is made to the following acts for guidance in drafting certain bills that are likely to be considered at any regular legislative session:

- (1) Transfer of boards and commissions, functions, personnel, or property within the structure of state government: Act 1, SLH 1959, Second Spec. Sess., sections 31 to 33.
- (2) Claims against the State: Act 61, SLH 1994.
- (3) Authorizing suits against the State: Act 239, SLH 1967.
- (4) Criminal Injuries Compensation payments: Act 157, SLH 1994.
- (5) Transfer of functions from county to State: Act 97, SLH 1965.
- (6) Transfer of functions from State to counties: Act 241, SLH 1978.
- (7) Issuance of Special Purpose Revenue Bonds: Act 219, SLH 1994.
- (8) Declaration of Findings with respect to General Obligation Bonds Authorized for Issuance: Act 256, SLH 1994.
- (9) Disposition of Excess Revenues through an Income Tax Credit: Act 85, SLH 1994.

Part II. Making Technical and Grammatical Corrections to Existing Statutes

For various reasons errors creep into statutes. Many persons with varying degrees of expertise draft statutes. Typographical errors are made, and statutes are amended without amending related statutes. Therefore, legislative drafters should scrutinize the statute being amended for technical and grammatical accuracy in addition to making the required substantive changes. At a minimum, the drafter should be alert for the following:

- (1) Internal statutory references should be checked to determine if the reference has been renumbered, amended, or repealed.

- (2) Correct spelling.
- (3) Add commas before conjunctions. See chapter 6.
- (4) Correct capitalization, particularly of the word State. See chapter 6.
- (5) Numbers should be written out if appropriate, see item 10 of chapter 3.
- (6) Correct word usage. See chapter 3, particularly item 13.i. See for example, chapter 5, item 3.c. and item 5.d.

Caveat. When making these corrections, drafters should keep in mind the larger legislative process. For example, if a bill has crossed over into the second house, making technical or grammatical corrections when no substantive amendments are being made frustrates the process (which is to enact legislation) by adding unnecessarily to the number of bills going to conference committee or otherwise must be kept track of later in the session.

Part III. "Drop Dead" Provisions and Temporary Amendments to Laws

Recent years have seen an increase in the number of measures enacting temporary amendments to laws. The amendments drop dead on a specified date, and the law reverts to its preexisting form. These provisions then create drafting problems for future legislatures. The following is an example of a drop dead provision.

SECTION . This Act shall take effect upon its approval; provided that on June 30, 1999, section 1 of this Act shall be repealed and section 000-00, Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of this Act.

Other examples of drop dead provisions are discussed later. The preceding example is the preferred provision. Section 1 of the Act is repealed and the provisions of the Hawaii Revised Statutes are reenacted in the form in which they existed as of a specific time, so that there is no loss of statutory provisions. This is also discussed further in the examples.

The drafter of amendments to the provisions of section 000-00, Hawaii Revised Statutes (HRS), between the effective date of the Act referred to above and June 30, 1999, is faced with a problem. The problem is that any amendments to section 000-00, HRS, made before June 30, 1999, will be repealed and section 000-00 will be reenacted in the form in which it read before all intervening amendments. (See the note to section 103-22, HRS, in the 1992 Supplement explaining the loss of amendments made in 1987, 1988, 1989, and 1990, to section 103-22, HRS, due to failure in the 1991 legislative session to eliminate the drop dead and reenactment provision in Act 229, Session Laws of Hawaii 1987, extended by Act 200, Session Laws of Hawaii 1989.) What was an elegant solution to prevent the dropping of statutory language has become a challenge to succeeding legislative drafters.

The first question that the legislative drafter may have is: "How can I find out if the statutory provisions that I am amending will drop dead?"

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The Revisor of Statutes has taken care of this problem for the legislative drafter. Sections or parts of sections of HRS that will be repealed or repealed and reenacted have notes in italics at the front of the section or provision indicating the repeal and reenactment. See for example, section 42D-3, HRS, in the 1994 supplement which states:

§42D-3 Conditions for grants, subsidies, and purchase of service agreements. *[Repeal and reenactment on July 1, 1996. L 1992, c 194, §20.]*

Another version found in section 333F-1, HRS, 1994 supplement:

"Respite care" [Definition repealed on June 30, 1995. L 1990, c 178, §6.]

A drafter faced with either provision to amend must address the repeal of the section or definition which will erase any amendments made. First, the drafter should review the Act containing the repealing language to understand what the problem is. It may be preferable to repeal the drop dead provision (thereby making the temporary amendment permanent), but the drafter must check with the legislator making the request. The legislator may have some choice in mind. The likely response will be that the legislator wants the amendment being requested protected without affecting the language being repealed by the drop dead provision.

It is likely that there are a number of ways to reach the same end, that is the protection of current amendments being drafted. It is impossible to enumerate all of the various ways to approach the problem, since each problem may have a different solution. Recognizing there is a problem will lead to the appropriate solution.

For example, section 431:19-107, HRS, is repealed on June 30, 1996, and the previous version of the section is then reenacted. During the 1995 legislative session amendments were made to section 431:19-107, HRS, and these amendments need to escape the repeal and reenactment provisions. The legislative drafter could choose the following solution:

SECTION . Act 190, Session Laws of Hawaii 1994, is amended by amending section 10 to read as follows:

"SECTION 10. This Act shall take effect on July 1, 1994, and be repealed on June 30, 1996; provided that [any]:

- (1) Any statutory or session law material in this Act in existence on June 30, 1994, shall be reenacted on July 1, 1996, in the same form in which it existed on June 30, 1994[.]; and
- (2) Section 431:19-107, Hawaii Revised Statutes, shall be reenacted in the form in which it read as of June 30, 1994, as further amended by section 1 of Act _____, Session Laws of Hawaii 1995."

SECTION . In printing this Act, the revisor of statutes shall insert the appropriate number of this Act in section

In the preceding language the legislative drafter preserved the intent of Act 190, Session Laws of Hawaii 1994, which was to repeal the 1994 amendments, and the drafter protected the new amendments being made by Act , Session Laws of Hawaii 1995.

Examples

Drop dead provisions are used to force the legislative and executive branches to review at a later date the amendments or provisions being enacted to determine impact, performance, etc. Drop dead provisions have been written in several ways. The purpose of these examples is to alert drafters to the several ways in which a drop dead provision may be drafted, why some of them are incorrect, and how to protect later amendments.

EXAMPLE 1. Act 0, enacts a new section 000-00 in 1994. In 1998, Act 0 is repealed.

Assuming no intervening amendments, this drop dead provision is correct and will cause no problems because everything that was enacted drops dead.

EXAMPLE 2. Act 0 amends existing section 000-00 in 1994. In 1998, Act 0 is repealed. There is no reenactment provision. Act 0 amended the section to read as follows:

§000-00 Title. Section 000-00 only contained one paragraph before amendments made by Act 0.

Act 0 added this paragraph which will be repealed in 1998.

While the intent may be to return section 000-00 to pre-Act 0 language, a cloud is placed on the rest of section 000-00. The problem is that all of section 000-00 was set forth in Act 0 that was then repealed. Is all of section 000-00 repealed when Act 0 is repealed or only the part added by Act 0? The probable answer is that absent indications of legislative intent a court will find only the language added by Act 1 is repealed. The drafter, however, should not use this type of drop dead provision that invites this question, but instead should reenact section 000-00 to eliminate any doubts.

EXAMPLE 3. Act 0 amends section 000-00 in 1994. In 1998 Act 0 is repealed. There is no reenactment provision. Act 0 does the following:

§000-00 Title. Section 000-00 contained [one] a single paragraph before amendments made by Act 0[.] which are further set forth below.

Act 0 added this paragraph to section 000-00 and made amendments to the first paragraph.

This example clearly highlights the problem of not reenacting statutory provisions amended by the measure. Section 1-8, HRS, provides that unless clearly expressed, the repeal of any law does not revive any other law that has been repealed. Thus, upon repeal in 1998, the bracketed provisions in the first paragraph of section 000-00 are not reenacted. Do not use this type of drop dead provision without reenacting the existing statutory language. Upon reenactment, there is no problem.

EXAMPLE 4. Act 1 amends section 000-00 in 1994. Act 1 is repealed in 1998. There is no reenactment provision. In 1995, Act 2 further amends section 000-00. Section 000-00 with the amendments of Acts 1 and 2 set forth in Ramseyer format reads as follows:

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§000-00 Title. Section 000-00 contained [one] a single paragraph before amendments made by Act 1[.] which added a paragraph[.] as did Act 2.

Act 2 added this paragraph to section 000-00.

Act 1 added this paragraph to section 000-00[.] and Act 2 added this language to that paragraph.

When Act 1 is repealed in 1998 with no reenactment provisions and Act 2 has no protection provisions as found in the main portion of this discussion, no one knows how section 000-00 will read in 1998. Therefore, section 000-00 must be reenacted in the form in which it read after a specific time.

EXAMPLE 5. Act 1 amends section 000-00 in 1994. Act 1 is repealed in 1998 and section 000-00 is reenacted in the form in which it read before Act 1. Act 2 amends section 000-00 in 1995. Act 2's amendments are set forth in italics. Section 000-00 with the amendments of Acts 1 and 2 set forth in Ramseyer format reads as follows:

§000-00 Title. Section 000-00 contained [one] a single paragraph before amendments made by Act 1[.] and Act 2.

Act 2 added this paragraph to section 000-00 and made one amendment to paragraph one.

Act 1 added this paragraph to section 000-00 and made one amendment in paragraph one.

Upon the reenactment of section 000-00 in 1998, both the amendments made in Acts 1 and 2 are repealed. Section 000-00 contains no problem, but what was the intent of the legislature regarding Act 2? The legislature could have meant the amendments made by Act 2 to be repealed in 1998. On the other hand, the legislature could have intended to keep the amendments made by Act 2, but not Act 1. If this is true, it is up to the drafter to protect Act 2 amendments from repeal. One suggested method is provided in the main portion of this discussion. (See portion concerning section 431:19-107.)

If the provisions of Act 2 are protected, section 000-00 will read as follows after June 30, 1998:

§000-00 Title. Section 000-00 contained one paragraph before the amendments made by Act 1 and Act 2.

Act 2 added this paragraph to section 000-00 and made one amendment to paragraph one.

EXAMPLE 6. In the following example, the simple protection provision set forth in the main part of this discussion will not address the problem created by a reenactment provision.

Act 1 amends section 000-00 in 1994. Act 1 is repealed in 1998, and section 000-00 is reenacted in the form in which it read before Act 1. Act 2 amends section 000-00 in 1995, but Act 2 contains no reenactment provision. Act 2's amendments are set forth in italics. Section 000-00 with the amendments of Acts 1 and 2 set forth in Ramseyer format reads as follows:

SECTION 1. Section 000-00, Hawaii Revised Statutes, is amended to read as follows:

"§000-00 Title. Section 000-00 contained [one] a single paragraph before [amendments] changes made by [Act] Acts 1[.] and 2. Act 2 made changes to section 000-00 as it read before Act 1 and also made changes to Act 1 language. Act 1 added this paragraph to section 000-00[.] and Act 2 added some more words to this paragraph which cannot stand alone once the provisions of Act 1 are repealed in 1998."

This example is a simple representation of how difficult things can become. To date, this problem has not become common. The drafter cannot protect the provisions of Act 2 merely by making a statement in Act 1 as set forth in the main part of this discussion. The provisions of Act 2 will not stand by themselves when Act 1 is repealed and section 000-00 is reenacted. To preserve the provisions of Act 2, the drafter must amend Act 1 to provide (1) for the repeal of Act 1 provisions, and (2) the actual reading of section 000-00 as it will read after the repeal of Act 1, but with the provisions of Act 2.

Act 2 would contain the above section 1 and the following amendments would be made to Act 1 in Act 2:

SECTION 2. Act 1, Session Laws of Hawaii 1994, is amended by adding a new section to read as follows:

"SECTION 1A. Section 000-00, Hawaii Revised Statutes, is amended to read as follows:

"§000-00 Title. Section 000-00 contained one paragraph before changes made by Act 2.

Act 2 made changes to section 000-00 as it read before Act 1 and also made changes to Act 1 language.

Act 2 added the words in this paragraph which can stand alone in 1998."

SECTION 3. Act 1, Session Laws of Hawaii 1994, is amended by amending section to read as follows:

"SECTION . This Act shall take effect upon its approval; provided that section 1 of this Act is repealed on June 30, 1998, [and section 000-00, Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of this Act.] and section 1A shall take effect on July 1, 1998."

EXAMPLE 7. In the following example, as in example 6, the simple protection provisions set forth in the main part of this discussion will not address the problem created by a reenactment provision.

Act 1 amends section 000-00 in 1994. Act 1 is repealed in 1998, and section 000-00 is reenacted in the form in which it read before Act 1. Act 2 amends section 000-00 in 1995. Act 2 is repealed in 1998 and section 000-00 is reenacted in the form in which it read before Act 1. The 1996 legislature enacts Act 3, again amending section 000-00. Act 2's amendments are set forth in italics. Act 3's amendments are set forth in bold face (other than the section number and title to section 000-00 which are not amended by any act). Section 000-00 with the amendments of Acts 1, 2, and 3 set forth in Ramseyer format reads as follows:

SOME COMMON STATUTORY PROVISIONS AND PROBLEM AREAS

SECTION 1. Section 000-00, Hawaii Revised Statutes, is amended to read as follows:

"§000-00 Title. Section 000-00 contained [one] a single paragraph before [amendments] changes made by [Act] Acts 1 [and], 2[.], and 3.

Act 2 made changes to section 000-00 as it read before Act 2, Act 3 made further changes to Act 2, and also made changes to Act 1 language. Act 3 also made necessary amendments to section 000-00.

Act 1 added this paragraph to section 000-00[. and], Act 2 added more words to this paragraph, Act 3 made further changes, and this paragraph [which] cannot stand alone once the provisions of Act 1 and Act 2 are repealed in 1998."

This example is more complex than example 6 and again is not yet common. The legislative drafter cannot protect the provisions of Act 3 merely by making a statement in Act 1. Both Acts 1 and 2 must be amended and section 000-00 must be enacted as amended by Act 3 with housekeeping amendments to keep the section accurate and grammatical.

Thus, in order to preserve the provisions of section 000-00 as amended by Act 3, the drafter must amend Act 1 and Act 2 by deleting the repeal and reenactment language in Acts 1 and 2 and then provide for section 000-00 as amended by Act 3 after June 30, 1998.

Act 3 will have the following sections (in addition to the first amendment discussed and set forth above as section 1 of the Act) reading as follows:

SECTION 2. Section 000-00, Hawaii Revised Statutes, is amended to read as follows:

"§000-00 Title. Section 000-00 contained one paragraph before amendments made by Act 3.

Act 3 made changes to Act 2 which may be kept. Act 3 also made necessary amendments to section 000-00.

Act 3 made further changes to section 000-00."

SECTION 3. Act 1, Session Laws of Hawaii 1994, is amended by amending section 3 to read as follows:

"SECTION 3. This Act shall take effect upon its approval[; provided that section 1 of this Act shall be repealed on June 30, 1998, and section 000-00, Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of this Act]."

SECTION 4. Act 2, Session Laws of Hawaii 1995, is amended by amending section 3 to read as follows:

"SECTION 3. This Act shall take effect upon its approval[; provided that section 1 of this Act shall be repealed on June 30, 1998, and section 000-00, Hawaii Revised Statutes, is reenacted in the form in which it read on the day before the approval of Act 1, Session Laws of Hawaii 1994]."

SECTION 5. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 6. This Act shall take effect upon its approval; provided that section 2 of this Act shall take effect on July 1, 1998.

What the drafter did in section 2 above is to delete the provisions of Acts 1 and 2 and merge section 000-00 and Act 3 as it would read on July 1, 1998. If section 2 set forth the amendments to section 000-00 in Ramseyer format, it would read as follows:

S000-00 Title. Section 000-00 contained [a single] one paragraph before the [changes] amendments made by [Acts 1, 2, and] Act 3.

[Act 2 made changes to section 000-00 as it read before Act 2,] Act 3 made [further] changes to Act 2[, and also made changes to Act 1 language.] which may be kept. Act 3 also made necessary amendments to section 000-00.

[Act 1 added this paragraph to section 000-00, Act 2 added more words to this paragraph,] Act 3 made further changes[, and this paragraph cannot stand alone once the provisions of Act 1 and Act 2 are repealed in 1998.] to section 000-00.

The above discussion gives a flavor of the problems that must be addressed by the legislative drafter in this area.

Part IV. Hawaiian Homes Commission Act

Under Article XII, section 3, of the State Constitution, certain sections of the Hawaiian Homes Commission Act may not be amended without the consent of the United States. For that reason, in amending the HHCA, the legislature has sometimes stated that the amendments become effective upon consent of Congress or, that if the consent of Congress is needed, it should be obtained.

The supplement to the Hawaii Revised Statutes may contain two versions of sections of the HHCA (1) the latest version for which no congressional consent was needed or indicated, or (2) in notes, because of the uncertain status of amendments requiring the consent of Congress, the latest amended version for which congressional consent was needed or indicated.

In amending the HHCA, it is suggested that the drafter amend the latest version in the supplement which represents the legislature's intent. If the latest version of a section is in a note indicating that the text of the note requires congressional consent, the text of the note should be used as the base for drafting amendments.

Chapter 5

RAMSEYER FORMAT

The Rules of the Senate and the House of Representatives require that every bill introduced or reported out of any committee, which amends an existing section or subsection of the *Hawaii Revised Statutes* or Session Law of Hawaii, shall set forth the section or subsection in full, and the matter to be deleted shall be enclosed in brackets and any new matter added to the section or subsection shall be underscored. A bill need not conform to the rules if it is (1) a Supplemental Appropriations Bill or (2) an amending bill the intent and effect of which can be clearly identified and understood without repeating the entire section or subsection, in which case only the paragraphs, subparagraphs, clauses, or items to be amended need be set forth as the President or the Speaker may allow. The Speaker or the President may allow additional exceptions to the rules.

Caveat. The underlined material in a Ramseyered section indicates new material, while the bracketed material indicates repealed material. The Ramseyer section, see item 7, indicating the effect of the Ramseyered material is not a statement limiting amendments in a bill to those properly Ramseyered. The addition of new words to a section without underlining means the section is amended to include those new words. Similarly, failure to type out existing words results in a repeal of those words.

Additionally, the prefatory language introducing the section to be amended must accurately refer to the section or part of a section being amended. See for example, Act 182, Session Laws of Hawaii 1979, which effectively repealed pages of definitions unintentionally, and Act 147, Session Laws of Hawaii 1979, which effectively repealed subsections unintentionally.

The following guidelines are recommended for drafting bills under the Ramseyer format.

1. Sequence

- a. If the bill deletes matter and adds new or different matter, follow the grammatical arrangements of the existing law and of the proposed amendment.

Example:

Section 171-48, Hawaii Revised Statutes, is amended to read as follows:

"§171-48 Residence lots, requirements. In the disposition of lots for residence purposes:

- (1) No person shall purchase or lease, directly or indirectly through an agent, nominee, third person, or otherwise, any interest in more than one lot.

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[(2) No person and no unmarried minor child, whose spouse or parent purchases or leases a lot, shall be eligible to purchase any lot.

(3)] (2) The board of land and natural resources shall require the lessee or purchaser to construct a dwelling of such size and value [and within such time] as shall be prescribed by the board[.] within three years following the date of purchase or lease. The board on application of the purchaser or lessee may extend the three-year period from time to time for good cause.

[(4)] (3) The board shall establish [such] any additional restrictions, requirements, or conditions in accordance with the powers granted to it in section 171-6(6)."

- b. If the bill proposes to replace an existing word or figure with a new word or figure, the matter to be deleted is set forth first in brackets and the new matter, underscored, is set forth immediately after.

Example:

Section 207-6, Hawaii Revised Statutes, is amended to read as follows:

"§207-6 Bond authorization. The director of finance [may] with the approval of the governor, may issue from time to time general obligation bonds pursuant to chapter 39, part I not exceeding [\$500,000] \$15,000,000 for the granting of loans pursuant to the purposes of this part."

If a portion of a word is being changed, such as changing its capitalization, the entire word is replaced, first enclosed in brackets as it appears in the existing law; then amended correctly and underscored. See item 4b in chapter 6.

- c. If a bill proposes to amend the Hawaii Rules of Evidence, the section is referred to first, followed by the rule.

Example:

Section 626-1, Hawaii Revised Statutes, is amended by amending rule 101 to read as follows:

"Rule 101 Scope. These rules govern proceedings in the courts of the State [of Hawaii], to the extent and with the exceptions stated in rule 1101."

2. Punctuation

An amendment that changes punctuation or spelling in existing statutes is indicated by appropriate bracketing and underscoring. Do not insert new material before the punctuation.

Example:

Section 580-52, Hawaii Revised Statutes, is amended to read as follows:

"§580-52 **Marriage after divorce.** Whenever a marriage is dissolved[,] as provided by this chapter, either party to the divorce may marry again[.] at any time."

3. Amendments

The full text of an amended section or subsection must be set out at length: No matter how small the proposed amendment and no matter how lengthy the amended part of the section or subsection in which the amendment is to appear, the whole section or subsection must be set forth in its entirety. If the amendment involves a change only in a paragraph or in a smaller division of a section than a subsection, the entire section or subsection, as the case may be, must be set forth. See chapter 6, item 3, on how to determine whether a section has been divided into subsections.

Exceptions: If a section consists only of definitions, then only the definition being amended need be set forth in its entirety, applying Ramseyer format. If the title to a section is being amended and there is no amendment to the section itself, then only the title need be set forth.

a. Prefatory Language

The prefatory language indicates unit of organization (e.g., chapter, part, section, subsection) to be amended.

- (1) Amending (all sections in) an entire chapter.

Chapter 000, Hawaii Revised Statutes, is amended to read as follows:

[Set out text of chapter and show changes.]

- (2) Amending (all sections in) an entire part.

Chapter 000, part I, Hawaii Revised Statutes, is amended to read as follows:

[Set out text of part and show changes.]

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(3) Amending a section.

Section 000-2, Hawaii Revised Statutes, is amended to read as follows:

[Set out text of section and show changes.]

(4) Amending a subsection.

Section 000-3, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

[Set out text of subsection and show changes.]

(5) Amending a paragraph or unit of organization lower than a subsection.

The subsection is the lowest unit of organization that can be set out for amendment--no matter how minimal the change. Therefore, if the section is divided into subsections, follow (4). If the section is not divided into subsections, follow (3).

For a "litmus paper" test as to whether a section is divided into subsections, see chapter 6, item 3.

(6) Amending a definition.

Section 000-1, Hawaii Revised Statutes, is amended by amending the definition of "agency" to read as follows:

[Set out text of definition and show changes.]

Note. If amending a numbered definition, and numbers are not changing, see item e, second example.

b. Titles

(1) Bills typed on a word processor which CANNOT present bold face.

Titles to sections are underscored once to indicate that they are set in bold face type and to set them apart from the body of the section. Since they are underscored once, additions to titles must be double underscored and deletions in titles should not be underscored at all. Note this is the only instance in which double underscoring should be used.

Example: See caveat at beginning of this chapter.

Section 235-11, Hawaii Revised Statutes, is amended by amending the title to read:

"§235-11 Amortization of certified [pollution control facilities.] environmental improvement equipment."

- (2) Bills typed on legislature's computer system or other word processor which CAN present bold face.

Titles to sections are printed in bold face. No underscoring is needed to indicate bold face. Additions to titles are single underscored.

Section 235-11, Hawaii Revised Statutes, is amended by amending the title to read:

"§235-11 Amortization of certified [pollution control facilities.] environmental improvement equipment."

c. Sections

Example:

Section 207-2, Hawaii Revised Statutes, is amended to read as follows:

"§207-2 Qualifications for loans. To qualify for a loan under this part an applicant [must:] shall:

- (1) Be of legal age and have at least one person who will occupy the premises with [him] the applicant and who is related to [him] the applicant by blood or marriage and solely dependent upon [him] the applicant for support. A husband and wife, who are both employed, shall jointly qualify for a loan;
- (2) Be a resident of the State for not less than one year immediately preceding the application for the loan;
- (3) Have a gross annual income not in excess of [\$7,000] \$15,000 including the gross income of [his] the applicant's spouse; and
- (4) Have such other qualifications as may be established by the director of finance."

Example:

Section 11-20, Hawaii Revised Statutes, is amended to read as follows:

"§11-20 Transfers; name changes; initiated by clerk. (a) The clerks shall use all reliable and pertinent information to keep the general register up to date. The county clerks may request information from, but are not limited to, the following sources:

- (1) The office of the lieutenant governor for any change of name;

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- (2) Courts for any changes of name, divorces, separations, or other changes affecting voter status;
- (3) The department of health for marriages, deaths, or other changes affecting voter status;
- (4) Utility companies concerning commencement or changes of service;
- (5) Residential apartments, cooperative apartments, and condominiums as to changes of occupancy.

In requesting [such] the information the clerk shall give reasonable notice and time for furnishing the information.

(b) If the clerk has evidence indicating that a voter's registration should be transferred, then not later than 4:30 p.m. on the [ninetieth] one hundred twentieth day prior to the primary the clerk shall notify the person by first-class mail and not later than 4:30 p.m. on the third day thereafter publish in a newspaper of general circulation notice of intent to transfer registration. Notice by mail shall be sent to the address shown on the current voter list and any alleged new address. The notification shall include:

- (1) Any evidence that the clerk may have indicating why a transfer or change should be made;
- (2) The residence, precinct, and district of the voter according to current registration lists;
- (3) The alleged new address, precinct, and district;
- (4) A reply form which shall contain a space for the voter's agreement or objection to the transfer and the reasons for the objection;
- (5) Notice that unless the completed form is returned not later than 4:30 p.m. on the fifteenth day after mailing the voter shall be subject to challenge at the polls under the terms of section 11-25 on the basis of not being registered in the precinct where [he] the voter resides.

If no response is received by the clerk by 4:30 p.m. on the fifteenth day after mailing, a second notification shall be made not later than 4:30 p.m. on the [sixtieth] ninetieth day prior to the primary, by telephone or personal contact. A record shall be maintained of all the phone calls or attempted personal contacts noting the date, time, person calling, person called, and reply received.

(c) If, on the basis of the evidence available the clerk has good reason to believe that the voter does actually reside at some address other than the one carried on the registration list, the clerk shall transfer the voter to [such] that new address. A list of those transferred, and the precinct to which they were moved, [will] shall be available at the old precinct on election day. A voter may contest [such] the transfer [on or before election day by presenting evidence that he actually resides at the old address which, if found valid by the clerk or the board of registration, shall entitle the voter to be returned to the old voting list by executive order].

A list of all voters with questionable addresses who fail to respond to notification attempts of the clerk, but who have not been transferred, shall be posted at the precinct wherein [he] the voter is registered on election day and shall be made available to the public not later than 4:30 p.m. on the forty-fifth day prior to the primary election."

- d. Subsections: See caveat at beginning of this chapter; and chapter 6, item 3.

Example: Hawaii Revised Statutes

Section 163-18, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

"(g) The board may[, whenever it believes the public interest will be best served] serve suitable notices or warnings, in writing, rather than resorting to prosecution for minor [violations.] violations."

Note: Amendments to contiguous subsections within the same section (e.g., subsections (a) and (b), or (d) and (e)) may be made together in the same section of the bill. Amendments to subsections that are not contiguous (e.g., subsections (b) and (d)) must be made in separate sections of the bill. See chapter 6, item 4g.

For the addition or deletion of entire subsections see items 4(d) and 5(d) of this chapter.

Example: Hawaii Rules of Evidence

Section 626-1, Hawaii Revised Statutes, is amended by amending rule 104, subsection (d), to read as follows:

"(d) Testimony by accused. The accused does not, by testifying upon a preliminary matter, subject [himself] oneself to cross-examination as to other issues in the [case.] proceeding."

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Example: Hawaii Penal Code

Section 708-813, Hawaii Revised Statutes, is amended by amending subsection (3) to read as follows:

"(3) Criminal trespass in the first degree is a [mis-demeanor.] class C felony."

Example: Multistate or Interstate Compacts (for Ramseyer purposes, treat each Article as a subsection)

Section 255-1, Hawaii Revised Statutes, is amended by amending Article I to read as follows:

"Article I. Purposes.

The purposes of this compact are to:

1. Facilitate proper determination of [State] state and [local] county tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.

2. Promote uniformity or compatibility in significant components of tax systems.

3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.

4. Avoid duplicative taxation."

e. Definitions

Example: See caveat at beginning of this chapter.

Section 361-1, Hawaii Revised Statutes, is amended by amending the definition of "developer" to read:

"Developer" means a developer of moderate-income housing under section 202, 207, 213, 221(d)(3), [221(d)(5), or] 221(d)(4), 231, or 236 of the National Housing Act or a public agency, limited dividend corporation, or a private nonprofit corporation as defined in section 221(d)(3) which conforms to the standards of those sections but which is not a mortgagor under those sections or any other private mortgagor under the National Housing Act for low- or moderate-income family housing, regulated or supervised under federal or state laws or by political subdivisions of the State, or agencies thereof, as to rents, charges, capital structure, rate of return, and methods of operation, from the time of issuance of the building permit for the project."

OR

Example: See caveat at beginning of this chapter.

Section 515-2, Hawaii Revised Statutes, is amended by amending the definition of "real property" to read:

"(9) "Real property" includes [buildings, structures,] real estate, lands, tenements, leaseholds, interests in real estate cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest therein."

4. New Material

a. Material in a bill proposing a new chapter, new part, or new subpart need not be underscored. A grouping of sections under a heading (see chapter 445, HRS for examples) may be treated as a part or subpart even though not formally designated as such.

b. Prefatory Language

The prefatory language indicates what is being added. Except for unusual circumstances, the numbering of new sections, parts, or chapters should be left for the revisor of statutes to designate.

(1) Adding a new chapter.

The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

[Set out text of new chapter with sections numbered -1, -2, etc. No underscoring needed. If a new chapter is divided into parts, the first section of each part should be a number ending with a "1", such as -11, -21, etc.]

(2) Adding a new part.

Chapter 000, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

[Set out text of new part with sections numbered 000- , 000- , etc. No underscoring needed.]

Note. If forming a part out of existing sections:

SECTION 3. Chapter 000, Hawaii Revised Statutes, is amended by designating sections 000-1 to 000-15.5 as part I, entitled "General Provisions".

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(3) Adding a new section.

Chapter 000, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

[Set out text of section underscored.]

(4) Adding a new subsection.

Section 000-02, Hawaii Revised Statutes, is amended to read as follows:

[Set out text of section with new subsection underscored.]

(5) Adding a new paragraph or lower level of organization.

This is treated as an amendment of the section or subsection.

Section 000-03, Hawaii Revised Statutes, is amended to read as follows:

OR

Section 000-04, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

(6) Adding a new definition.

Section 000-01, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

[Set out text of definition underscored.]

- c. The addition of a new section to an existing chapter does not require the chapter to be set forth at length. However, the new section or sections must be set forth in their entirety and underscored.

Example (section added to chapter having no parts):

Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§237- Exemption of certain shipbuilding and ship repair business. There shall be exempted from, and excluded from the measure of, the taxes imposed by this chapter all of the gross proceeds arising from ship building and ship repairs rendered to surface vessels federally owned or engaged in interstate or international trade."

Note. If chapter 237 was divided into parts and the section was being added to part II, the prefatory language would read:

Chapter 237, Hawaii Revised Statutes, is amended by adding a new section to part II to be appropriately designated and to read as follows:

Example (New Rule Added to Rules of Evidence):

Section 626-1, Hawaii Revised Statutes, is amended by adding a new rule to be appropriately designated and to read as follows:

"Rule _____ Payment of medical and similar expenses. Evidence of furnishing or offering or promising to pay medical, hospital, or similar expenses occasioned by an injury is not admissible to prove liability for the injury."

- d. The addition of a new subsection to an existing section requires the section to be set forth in its entirety.

Example:

Section 15A-3, Hawaii Revised Statutes, is amended to read as follows:

"§15A-3 Request for mailing ballot. (a) Any registered voter entitled to vote under this chapter may request a mailing ballot in person or in writing from the county clerk not earlier than on the sixtieth day and not later than 4:30 p.m. on the seventh day prior to the election. The request for a mailing ballot shall include any information which will facilitate the location of [his] the voter's voting precinct, the establishment of [his] the voter's right to a mailing ballot, and the address to which [he] the voter wishes [his] the voter's ballot forwarded. In any event, not later than 4:30 p.m. on the seventh working day subsequent to the closing of registration for each election, the clerk may mail a request form for a mailing ballot to each registered voter in remote areas who has not already made such a request. The request form shall be accompanied by:

- (1) A stamped, self-addressed envelope; and
- (2) Instructions regarding the manner of completing and returning the request form.

(b) A request made prior to any primary or special primary election by an eligible voter shall be deemed to be made with respect to both the primary and general elections or to both the special primary and special general elections.

(c) Any voter requesting a mailing ballot for a primary or special primary election who has not voted in a primary or special

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primary election since 1968 shall state the voter's selection of party ballot, nonpartisan ballot, or of only the official board of education ballot in the voter's request."

- e. The addition of a new definition to a section composed only of definitions requires only the new definition to be set forth. However, if the addition of the new definition will require other amendments in the section (such as the renumbering of numbered definitions), the section or subsection should be set forth in its entirety.

Example: See caveat at beginning of this chapter.

Section 235-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"Uniformed services of the United States" means the Army, Navy, Air Force, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service, and all regular and reserve components thereof, including the National Guard. The term "uniformed services of the United States" applies only to persons who are deemed members thereof under the laws of the United States relating to pay and allowances. Service as a member of the uniformed services includes inactive duty training."

OR

Example:

Section 153-1, Hawaii Revised Statutes, is amended to read as follows:

"§153-1 Definitions. Whenever used in this chapter, unless the context otherwise requires:

[(1)] "Board" means the board of agriculture.

"Committee" means the advisory committee on agricultural products.

[(2)] "Qualified agriculturalist" means a person, or association of persons, actively engaged in a farm, agricultural produce processing, or agricultural product development activity."

Note. By deleting the numbers, only the definitions to be added or deleted will have to be set forth in future amendments to definitions. Before deleting numbers, however, be sure there are no cross-references to those numbers.

5. Repeal

a. A bill to repeal a chapter, part, or subpart need not set forth the chapter, part, or subpart to be repealed. See Appendix D. A grouping of sections under a heading (see chapter 445, HRS, for examples) may be treated as a part or subpart even though not formally designated as such.

b. Prefatory Language

(1) Repeal of a chapter.

Chapter 000, Hawaii Revised Statutes, is repealed.

[No need to set out text.]

(2) Repeal of a part.

Chapter 000, part I, Hawaii Revised Statutes, is repealed.

[No need to set out text.]

(3) Repeal of a section.

Section 000-2, Hawaii Revised Statutes, is repealed.

[Set out text of section bracketed.]

See item c.

(4) Repeal of a subsection.

Section 000-3, Hawaii Revised Statutes, is amended to read as follows:

[Set out text of section. Bracket repealed subsection.]

See item d.

(5) Repeal of a paragraph or a lower unit of organization.

This is treated as an amendment of the section or subsection.

Section 000-4, Hawaii Revised Statutes, is amended to read as follows:

OR

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Section 000-5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

[Set out text of section or subsection and bracket repealed material.]

(6) Repeal of a definition.

Section 000-6, Hawaii Revised Statutes, is amended by repealing the definition of "agency".

[Set out text of definition in brackets.]

See item e.

(7) Repeal of an Act.

Act 214, Session Laws of Hawaii 19__, is repealed.

[No need to set out text.]

- c. A bill to repeal a section must set forth the section in its entirety in brackets. Note quotation marks are inside the brackets.

Example:

Section 19-7, Hawaii Revised Statutes, is repealed.

["§19-7 Penalty. Any person convicted of a misdemeanor under this chapter shall be fined not more than \$500 or imprisoned not more than six months, or both."**"]**

Example:

Section 626-1, Hawaii Revised Statutes, is amended by repealing rule 802.

["Rule 802 Hearsay rule. Hearsay is not admissible except as provided by these rules, or by rules prescribed by the Hawaii supreme court, or by statute."**"]**

- d. A bill to delete a subsection must set forth the section in its entirety.

Example:

Section 149A-16, Hawaii Revised Statutes, is amended to read as follows:

"§149A-16 Coloration of certain pesticides. (a) Pesticides known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite,

sodium fluoride, sodium fluosilicate, or barium fluosilicate shall be distinctly colored as specified by regulation.

(b) The [chairman may,] the chairperson, after hearing, may require the coloration of other pesticides that [he] the chairperson determines to be necessary to protect the health and environment.

[(c) The chairman may exempt the coloration requirements for certain uses that he determines not to have substantial adverse effect on the environment.]"

- e. A bill to delete a definition in a section comprised only of definitions requires only the definition to be deleted to be set forth. However, if the deletion of the definition will require other amendments in the section, the section or subsection should be set forth in its entirety.

Example: See caveat at beginning of this chapter.

Section 235-1, Hawaii Revised Statutes, is amended by deleting the definition "trade or business".

[""Trade or business" includes the performance of the functions of a public office."]

OR

Example:

Section 205-31, Hawaii Revised Statutes, is amended to read as follows:

"§205-31 Definitions. As used in this part, unless the context otherwise requires:

[(1)] "Agency" means the planning department of each county[;].

[(2)] "Shoreline" means the upper reaches of the wash of waves, other than storm and tidal waves, usually evidenced by the edge of vegetation growth, the upper line of debris left by the wash of waves[;].

[(3)] "Shoreline setback" means all of the land area between the shoreline and the shoreline setback line[;].

[(4)] "Shoreline setback area" means all the land area seaward of the shoreline setback line;

[(5)] "Shoreline setback line" means that line established by the [State] state land use commission or the county running inland from and parallel to the shoreline at a horizontal plane."

Note. By deleting the numbers and changing the semicolons to periods this definitional section will be easier to amend in the future.

6. Special Cases

a. Numerous deletions or insertions in existing Hawaii Revised Statutes sections.

If a bill proposes so many deletions and insertions in an existing section or subsection of the Hawaii Revised Statutes, as to make reading the section difficult, the entire section or subsection may be bracketed and the new matter set out underscored in its entirety.

b. Numerous instances of identical or very similar amendments.

In some instances, where changes are being made to a number of sections, and are the only changes being made in each section, the amendments can be made by listing the sections to be amended and describing the change to be made. This is easier than setting out the text of each section or subsection affected.

Example:

SECTION . Sections 000-0, 000-1, 000-2, 101-10, 125-35, and 247-9 are amended by substituting the word " _____ " wherever the word " _____ " appears, as the context requires.

See Act 269, SLH 1985, §§49-55. Among other things, this Act changed the bank examiner to the commissioner of financial institutions, and transferred certain functions from the director of regulatory agencies to the commissioner.

See also Act 65, SLH 1988, §§1, 2, changing (among other things) "horizontal property regime" to "condominium property regime".

Caveat. In using this approach, each change must be capable of being made by direct word-for-word substitution. Amend in the usual manner, by setting out the text, for any changes that cannot meet this requirement.

c. House or Senate drafts.

In preparing a House or Senate Draft or Floor Amendment of a House Bill or a Senate Bill, the bracketing and underscoring must relate to existing law, not to the contents of the Senate or House Bill or the draft or floor amendment changes. Do not Ramseyer previously Ramseyered material.

d. Budget and supplemental appropriation bills.

The biennial budget bill and the supplemental appropriations bill, because of their format and predominant use of figures, need not use the Ramseyer format to amend prior acts being amended.

- e. (1) Brackets in statutory material. When inserting dates and other words in the statutes, brackets are used to alert the user of the statutes, that a change has been made by revisor of statutes. When amending statutes containing brackets, the brackets must be set out and deleted in either of the following methods:

The salary of the sheriff shall be set by the [[]chief justice[]].

OR

The salary of the sheriff shall be set by the [[chief justice].] chief justice.

Deletion of the brackets ratifies the actions of the revisor.

- (2) Brackets that are part of the statute. An example of this may be found in Act 162 of the Session Laws of Hawaii 1974. In this case, the brackets must remain in the statute and appropriate changes made to the statement of effect of bracketing to preserve the brackets.

7. Statement of Effect of Bracketing and Underscoring

The next to the last section of every bill using the Ramseyer format should be one of the following appropriate sections:

SECTION _____. Statutory material to be repealed is bracketed. New statutory material is underscored.

OR

SECTION _____. Statutory material to be repealed is bracketed.

OR

SECTION _____. New statutory material is underscored.

For Ramseyer language on a constitutional amendment, see section 4 in Example 2-4.

In printing an act, the Revisor of Statutes includes the underscoring, the brackets, or the bracketed material except when a new section is added or an existing section is repealed. See section 23G-16.5, HRS.

Chapter 6

RECURRING DRAFTING ERRORS AND CORRECT EXAMPLES

This chapter discusses common drafting errors and how to correct them. Drafters should familiarize themselves with these common errors not only to avoid repeating them, but also to be able to identify and correct them at appropriate stages in the drafting and enactment process.

1. **Commas.** Words in series have commas before the conjunction.*

The right way:

This, that, and the other thing.

The wrong way:

This, that and the other thing.

*This does not apply to constitutional provisions.

2. **State.** When referring to the State of Hawaii and State is used as a noun or possessive adjective, it should be capitalized.

Example:

The State shall use the State's money to assist both the state and county administration-----.

3. **How to tell if a section has a subsection.** A section has a subsection if the (a) or (1) (particularly Penal Code) occurs immediately after the title of the section and before any substantive language starts.

Examples:

§000-00 Title. (a) This section has a subsection since no language appears between the title and the (a).

§000-00 Title. The authority shall: (1) This is not a subsection and therefore the section has no subsections. Note the language between the title of the section and the (1).

4. **Ramseyer**

- a. Always bracket out punctuation before inserting new material. Do not insert new material between existing language and punctuation.

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The right way:

Always bracket out punctuation before inserting new material[.], do not insert new material otherwise.

The wrong way:

Always bracket out punctuation before inserting new material, do not insert new material otherwise.

The right way:

This one, that[,] one, and the other thing.

The wrong way:

This one, that one, and the other thing.

- b. Always bracket out a word and reinsert it when changing spelling.

The right way:

Just because a word is [misspelled] misspelled or you wish to change a singular word into [a] plural [word] words is no reason to be lazy.

The wrong way:

Correct misspelled words where they occur and do not add an s to a word to make it words without setting forth the whole word in brackets as in the above example.

- c. Do not insert punctuation before brackets.

The right way:

The fact that the period at the end of language being deleted, is three pages away is no excuse for doing it the wrong way[, therefore, please use this example no matter where the period occurs, not the following example].

The wrong way:

The fact that the period at the end of language being deleted, is three pages away is no excuse for doing it the wrong way. [, therefore, please use the other example no matter where the period occurs, not this example.]

- d. When renumbering paragraphs, please use the following method:

[(2) Bracket out the number with the material which is being deleted, and

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- (3)] (2) Reinsert the number when reaching the remaining material.

Do not use this method:

- (2) [Do not leave the number hanging before deleted material, and

- (3)] Then try and match it up with the remaining material.

- e. If a section has subsections and only subsection (a) is being amended do not set forth the title to the section when only amending subsection (a).

The right way:

"(a) When only amending subsection (a) the title and number of the section is not to be set forth."

The wrong way:

"§000-00 Title. (a) Do not set forth the title and number of a section when only amending subsection (a) of that section."

- f. If a section has three subsections and only one of the subsections is being amended do not set forth more than the subsection being amended.

The right way:

"(b) Since subsection (b) is the only subsection in section 000-00 being amended, only subsection (b) should be set forth."

The wrong way:

"§000-00 Title. (a) The drafter is only amending subsection (b) of the section.

(b) Therefore, only subsection (b) of this section should be set forth.

(c) Subsections (a) and (c), the section number, and the title should not be set forth when only amending subsection (b)."

- g. If noncontiguous subsections are being amended, they must be set forth in different sections of the bill.

The right way:

SECTION _____. Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Subsections (b) and (d) are noncontiguous subsections of [a] the same section."

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SECTION ____ . Section 000-00, Hawaii Revised Statutes, is amended by amending subsection (d) to read as follows:

"(d) Therefore each [subsections] subsection should be set forth and amended in different sections of the bill."

The wrong way:

SECTION ____ . Section 000-00, Hawaii Revised Statutes, is amended by amending subsections (b) and (d) to read as follows:

"(b) Subsections (b) and (d) are noncontiguous subsections of [a] the same section.

(d) Therefore each [subsections] subsection should be set forth and amended in different sections of the bill."

5. **Grammar.** The English language should be used according to rules of grammar. There is a particular tendency to split infinitives in bill drafting which is incorrect.

The right way:

After a hearing the chairperson may adopt rules.

OR

The chairperson may adopt rules after a hearing.

The wrong way:

The chairperson may, after a hearing, adopt rules.

6. Units of Organization Within Sections

- a. Lower levels of organization (subsections, paragraphs, etc.) should not be designated unless there are at least two of them.

The right way:

§000-00 Title. There is no point in having a section that contains only one subsection. A section cannot be "divided" into subsections if there is only one of them; provided that if the text requires material to be excepted, it can be accomplished by using a proviso as this example does.

The wrong way:

§000-00 Titles. (a) There is no point in having a section that contains only one subsection. A section cannot be "divided" into subsections if there is only one of them.

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- (1) There is also no point in having only one numbered paragraph. Material that must be excepted can be set off by using a proviso as was done in the previous example.
- b. Sections and subsections should not contain repetitive sets of lower levels of organization.

The right way:

§000-00 Title. (a) Sections and subsections should not:

- (1) Contain repetitive lists of lower levels of organization;
- (2) Such as two sets of numbered paragraphs.

(b) This problem can be prevented by placing each of the sets into separate subsections:

- (1) Thereby removing ambiguity;
- (2) Because all references will be to subsection (a)(1), (a)(2), (b)(1), or (b)(2).

The wrong way:

§000-00 Title. (a) Sections and subsections should not:

- (1) Contain repetitive lists of lower levels of organization;
- (2) Such as two sets of numbered paragraphs.

Doing this sort of thing creates problems because:

- (1) References become ambiguous;
- (2) No one will know which paragraph is meant when citing section 000-00(a)(1) or (2).

(b) If one is avoiding this example by making a new subsection for the second set of lower level organization, the formation of the new subsection should be appropriate. If not, when amending a section do not attempt to reformat it or if drafting a new section start over.

Another wrong way:

§000-00 Title. (a) Sections and subsections should not:

- (1) Contain repetitive lists of lower levels of organization;
- (2) Such as a set of numbered paragraphs and a set of alphabetized paragraphs simply because there is space.

If this lead-in sentence has nothing to do with paragraphs (1) and (2):

- (A) Lettering lists;
- (B) Does not avoid the problems.

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(b) This is due to the fact that subparagraphs (A) and (B) must relate to paragraphs (1) and (2). They are not merely for making a section more readable by listing.

(c) It should always be remembered that the use of subsections, paragraphs, subparagraphs, and clauses are like an outline; if there is a subsection, there should be at least one more subsection, and so forth.

Chapter 7

AMENDING SESSION LAWS

Part I. Introduction

Session laws are the laws of the State in the specific form enacted by the legislature. The session laws of a particular year, for example, the Session Laws of Hawaii 1994, are all of the Acts enacted by the legislature and not vetoed by the governor, in the order by which they became law. These Acts, however, would be arranged solely in chronological order, not by subject. As mentioned at the beginning of chapter 3, laws considered to be of a general and permanent nature are organized by general subject area and codified as the Hawaii Revised Statutes.

The fact that an Act (or any part thereof) is not codified in the Hawaii Revised Statutes does not make that Act or provision any less a "statute" or "law". Any provision in any of the Session Laws of Hawaii of any year that is not repealed or otherwise lapsed by operation of law is a validly enacted statute. For this reason, there may be any number of reasons why a drafter would seek to amend a portion of a session law that is not codified in the Hawaii Revised Statutes.

Part II. General Requirements

1. Ramseyer Requirement

Use the same Ramseyer rules set forth in chapter 5:

- a. The use of prefatory language to describe what is being amended;
- b. Showing deletions and additions through the use of brackets and underscoring; and
- c. The drafting conventions such as: deleting first and then adding; and not inserting new material before existing punctuation (see chapter 6 for more of these basic conventions).

2. What is the "Base" That is Being Amended?

The material covered in chapter 5 discussed amendments made to various provisions of the Hawaii Revised Statutes. This chapter applies to material that is in the Session Laws of Hawaii. The litmus paper test indicating that a session law is being amended rather than the Hawaii Revised Statutes, is that the prefatory language will so state. For example:

SECTION 1. Act 152, Session Laws of Hawaii 19__, is amended by amending section 1 to read as follows:

Part III. Amending Uncodified Material

1. Amending an Uncodified Section of a Session Law

SECTION 2. Act 300, Session Laws of Hawaii 19__, is amended by amending section 6 to read as follows:

"SECTION 6. This Act shall take effect on July 1, [1999 and shall be repealed on June 30, 2002.] 2000."

2. Amending a Subsection of an Uncodified Section of a Session Law

SECTION 3. Act 150, Session Laws of Hawaii 19__, section 2, is amended by amending subsection (b) to read as follows:

"(b) The purpose of this Act is to require the department of [education] health to operate temporary polio vaccination clinics at each secondary school in the State."

3. Adding a New Section to a Session Law

SECTION 1. Act 48, Session Laws of Hawaii 19__, is amended by adding a new section to read as follows;

"SECTION 5A. The department of health shall submit a report to the legislature on the results of the demonstration project by December 15, 19 ."

Note that the amendment designates a number for the new section (in this case, the intent is to add a new section between sections 5 and 6 of Act 48). The revisor of statutes publishes session laws "as is". Therefore, unlike new sections being added to the Hawaii Revised Statutes, the numbers of new sections added to session laws should be designated by the drafter rather than left to the revisor.

4. Deleting a Section from a Session Law

SECTION 3. Act 209, Session Laws of Hawaii 19__, is amended by repealing section 8.

["SECTION 8. There is appropriated out of the general revenues of the State of Hawaii the sum of \$25,000, or so much thereof as may be necessary for fiscal year 1999-2000, to carry out the purposes of this Act. The sum appropriated shall be expended by the department of taxation."]

Do not amend subsequent sections to renumber them to "fill the gap".

5. **Repealing an Entire Act (Session Law)**

SECTION 1. Act 214, Session Laws of Hawaii 19__, is repealed.

[No need to set out text.]

**Part IV. Amending Uncodified Material That
Makes Changes to the Hawaii Revised Statutes**

Drafters may find it necessary to amend session laws that amend the Hawaii Revised Statutes. While many other scenarios are possible, this situation is most likely to occur when the amending act makes amendments to a prior act that will not take effect until some time in the future.

This occurred when Act 320, Session Laws of Hawaii 1989, made a number of changes to chapter 286, Hawaii Revised Statutes, that were slated to take effect on January 1, 1991. Act 342, Session Laws of Hawaii 1990 amended Act 320 before it went into effect. Act 342 had to amend Act 320 (rather than the HRS sections themselves) because the results of Act 320 would not be published in the Hawaii Revised Statutes until after they took effect.

1. **Amending Session Law to Add a New Section to HRS**

SECTION 2. Act 219, Session Laws of Hawaii 1999, is amended by adding a new section to read as follows:

"SECTION 1A. Chapter 281, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§286- Rules. The department of transportation shall adopt rules under chapter 91 to implement this chapter."

2. **Amending Session Law to Add a Section to a New Part (or Chapter) Added to the HRS by Session Law Being Amended**

SECTION 3. Act 320, Session Laws of Hawaii 1989, section 2, is amended by adding a new section to the new part (chapter) to be appropriately designated and to read as follows:

"§286- Persons exempt from license. The following persons shall be exempt from licensure under this part:

- (1) Any active duty military personnel while operating a commercial motor vehicle in the service of the United States Department of Defense; provided that the driver has a current valid license or permit from the Department of Defense to drive the commercial motor vehicle; and
- (2) Federal firefighters who drive federal fire trucks, provided that they are trained by the federal government."

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In this case, the section is not underscored because it is being added to a new part (or chapter) and thus would not be underscored.

3. Amending Session Law to Amend a Section Being Added to the HRS

SECTION 2. Act 320, Session Laws of Hawaii 1989, is amended by amending section 1 to read as follows:

"SECTION 1. Chapter 286, Hawaii Revised Statutes, is amended by adding a new section to part XI to be appropriately designated and to read as follows:

"§286- Driver improvement program. Every employer who employs a commercial motor vehicle driver as categorized in section 286- , or a category [4] (4) driver in section 286-102, shall provide for every such driver a driver improvement program. This program shall provide a system for continuous driver evaluation and annual driver safety courses approved by the director. For drivers with five years of continuous employment with one employer, this requirement shall be at least once every two years. Every job placement center through which a category (4) or commercial motor vehicle driver is employed on a casual or sporadic basis, and not as a regularly employed driver for any one employer, shall be responsible for providing the driver improvement program for all its category (4) and commercial motor vehicle drivers. For purposes of this subsection only, "job placement center" means any place where persons may register for purposes of employment, and the dispatching of those persons to various jobs as they become available. Any employer or job placement center that violates this subsection shall be fined not more than \$500."

Note. In the earlier Act (the one being amended) this section would have been underscored. For purposes of amendment, however, do not "Ramseyer on Ramseyer". Instead, delete the repealed material, and remove underscoring from under new material. This is the new "base" upon which changes are shown.

4. Amending Session Law to Repeal a Section Being Added to the HRS

SECTION 21. Act 121, Session Laws of Hawaii 19__, is amended by repealing section 2.

["SECTION 2. Chapter 296, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§296- Annual report. The department shall submit an annual report to the legislature on progress made under the program."}]

5. Amending Session Law to Make Additional Amendments to an HRS Section Amended by the Session Law

SECTION 6. Act 288, Session Laws of Hawaii 19__, is amended by amending section 2 to read as follows:

"SECTION 2. Section 534-35, Hawaii Revised Statutes, is amended to read as follows:

"§534-35 Title. Text of section."

See note to item 3 above. Set out text of section as amended by the prior act, then show changes using brackets and underscoring.

6. Assume Same Facts as in Item 5, But Intent is to Only Amend a Subsection of Section 534-35

SECTION 6. Act 288, Session Laws of Hawaii 19__, section 2, is amended by amending subsection (c) of section 534-35, Hawaii Revised Statutes, to read as follows:

"(c) Text of subsection."

See note to item 3 above. Set out text of subsection as amended by the prior act, then show changes using brackets and underscoring.

7. Amending Session Law to Amend a Single Definition in a Definition Section

SECTION 4. Act 320, Session Laws of Hawaii 1989, section 1, is amended by amending the definition of "serious traffic violation" in section 286- , Hawaii Revised Statutes, to read as follows:

"Serious traffic violation" means:

- (1) [Excessive speeding, as defined by the United States Secretary of Transportation by regulation;] Driving at a speed of fifteen miles per hour or more above the posted speed limit;
- (2) Driving a commercial motor vehicle in disregard of the safety of persons or property (reckless driving); [or]
- (3) Improper or erratic traffic lane changes;
- (4) Following a vehicle ahead too closely; or
- [(3)] (5) A violation of any state or local law relating to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal traffic accident."

8. Amending Session Law (or a Section Thereof) That Has Been Amended by Multiple Prior Acts

SECTION 1. Act 2, First Special Session Laws of Hawaii 1986, section 31, as amended by Act 300, Session Laws of Hawaii 1989, section 2, as amended by Act 62, Session Laws of Hawaii 1991, section 1, as amended by Act 238, Session Laws of Hawaii 1993, section 1, is amended to read as follows:

"SECTION 31. This Act shall take effect upon its approval[, and sections 2, 4, 5, 6, 7, 17, and 20 shall be repealed on October 1, 1995]."

See note to item 3 above. Set out text of section as amended by all prior Acts, then show changes using brackets and underscoring.

While the foregoing example may appear to be fairly simple and straightforward, it must be emphasized that the drafter is responsible for piecing together the final form of an Act that may have gone through multiple amendments.

Chapter 8

APPROPRIATIONS

Making an appropriation is the way in which the Legislature funds projects ranging in scope from educational testing to construction of a convention center. In terms of mechanics, appropriations can be made through designation of cash from a source of funds, usually the general fund, or through authorizing the issuance of bonds. In terms of format, appropriations can be made by short bills that do nothing more than make an appropriation, or as part of an otherwise conventional bill creating or changing substantive law.

1. Necessary Information

The drafter should check with the requester for:

- (1) The recipient of the funds, including specific programs if appropriate;
- (2) The source of the funds;
- (3) The purpose of the appropriation (e.g., planning, site acquisition, construction, equipment, new program, additional civil service positions);
- (4) The expending agency (this often can be determined by the type of project); and
- (5) The amount.

2. Purposes of Appropriations

a. Operating Expenses

All state departments and agencies may expend appropriations for operating purposes.

Example:

SECTION ____ . There is appropriated out of the general revenues of the State of Hawaii the sum of \$_____, or so much thereof as may be necessary for fiscal year 19__-19__, to carry out the purposes of this Act, including the hiring of necessary staff. The sum appropriated shall be expended by the department of transportation.

Caveat. Specified period of appropriation required, such as fiscal year 19__-19__ (Article VII, section 11, of the State Constitution). Avoid appropriating funds in different fiscal bienniums.

In addition, operating expenses can include grants-in-aid and purchases-of-service. Grants-in-aid are transfers of money to, usually, a county. They are

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similar in form to a general appropriations bill, except that the word "grant-in-aid" appears in the title and sometimes in the text of the bill.

b. Capital Improvement Projects (CIP)

CIP appropriations are generally used for new buildings, road construction, and similar expensive projects resulting in a tangible object. While all state agencies may expend appropriations for the operating purposes, generally CIP moneys are expended by the following agencies:

- (1) Hawaii Housing Authority
- (2) Housing Finance and Development Corporation
- (3) Hawaiian Home Lands
- (4) Department of Land and Natural Resources
- (5) Department of Business and Economic Development
- (6) Department of Transportation
- (7) University of Hawaii
- (8) The Judiciary
- (9) Department of Accounting and General Services (for all other state agencies)

CIP appropriations can also be made to a county for expenditure by the county.

Because CIP appropriations are generally large and are spent on a specific object such as a building, they are usually funded by issuing general obligation bonds and then appropriating their proceeds for the project. The rationale for selling bonds (rather than paying cash) to pay for projects such as these is that the building, sewer system, or other item can be expected to have a long useful life and will benefit future as well as present taxpayers. Selling bonds allows the cost of the project to be spread over a period of years and thus paid for in part by the future users and beneficiaries rather than just the present ones. See Example 8-1.

3. Methods

The type of appropriations bill drafted depends on the purpose of the bill. More so than most bills, appropriation measures rely on standard boilerplate language. This should be followed closely.

a. Appropriations from General Revenues

Bills appropriating funds from general revenues contain at least three sections. The first section contains standard language describing the amount, the fiscal period, and the purpose of the appropriation. The second tells the reader who

the expending agency is, and the third section states the effective date which normally should be July 1, to coincide with the State's fiscal year. See Example 8-2.

These bills can be terse or they can be quite detailed about the use to which the moneys shall be put. See Example 8-3. Appropriation bills may also contain a detailed purpose section. See Example 8-3. Avoid appropriating funds in different fiscal bienniums.

Pursuant to Article VII, section 11, of the State Constitution, appropriations whose source is the general fund must be for a specific period not to exceed three years.

b. Grants-in-aid

Appropriations may also be made to counties in the form of grants-in-aid. These bills are similar in format to general appropriation bills, except that the words "grant-in-aid" appear in the body and sometimes the title of the bill. See Example 8-4.

Grants, subsidies, and purchases of service may be made to private entities pursuant to chapter 42D, Hawaii Revised Statutes. The leadership of the respective chambers should be consulted with regard to procedures that must be followed to process these requests.

c. General Obligation (GO) Bonds

General obligation bonds normally are used when the money is to be spent on capital items such as streets, buildings, sewage systems, stop lights, a significant amount of money is involved, and the items are expected to last for a long time (thereby justifying payment through the sale of bonds rather than cash). GO bonds are backed by the full faith and credit of the State.

The structure of the general obligation bond bill is similar to that of the general revenue appropriation bill. The difference is in the first section, in which the legislature both authorizes the director of finance to issue the general obligation bonds, in a specified amount, and then appropriates the same sum, or as much as is necessary, for the specified purpose. See Example 8-1. Pursuant to Article VII, section 11, of the State Constitution, appropriations whose source is general obligation bond funds must be for a specific period not to exceed three years. Avoid appropriating funds in different fiscal bienniums.

d. Special Purpose Revenue (SPR) Bonds

Special purpose revenue bonds are used to assist certain types of private entities in raising funds to purchase or build specific items or facilities expected to generate revenues with which to repay the bondholders. These SPR bonds, unlike the GO bonds, are not general obligations of the State: section 39A-41, Hawaii Revised Statutes, states that no moneys other than the revenues pledged to the repayment of these bonds may be used to pay them.

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There are five types of SPR bonds, and their requirements are specified in chapter 39A, parts II through VI. They are bonds to assist: non-profit corporations that provide health care facilities to the general public, manufacturing enterprises, processing enterprises, industrial enterprises, and utilities serving the general public in providing electric energy or gas.

SPR bond bills should include a purpose section, a finding that the issuance of the bonds is in the public interest, and a finding that the particular project comes under one of the parts of chapter 39A, and a lapsing date. For examples of SPR bond bills, see Examples 8-5 and 8-6.

4. Other Provisions

a. Revolving Fund

If an appropriation is made to a revolving fund, it is made out of the general revenues into the revolving fund. There is generally no lapsing date placed on such an appropriation.

Example:

SECTION _____. There is appropriated out of the general revenues of the State of Hawaii the sum of \$_____ for fiscal year 19__-19__, to be paid into the agricultural loan revolving fund created in section 155-14, Hawaii Revised Statutes. The sum appropriated by this Act shall be expended by the department of agriculture for the purposes of the fund.

Note. Revolving funds and special funds do not require appropriations made to them in order to be established.

b. Sources of Financing

If no direction is given relating to any specific source of financing, consult section 3 of this chapter for possible sources.

If direction is given to include specific sources of financing, and the projects include all the sources listed in the governor's CIP budget document, the following format may be used in section 1 of the bill:

SECTION 1. The following sums, or so much thereof as may be necessary to finance the projects set forth in this Act, are appropriated, or authorized, as the case may be, from moneys in the treasury received from general revenues, special funds, general obligation bond funds, harbor revenue bond funds, airport revenue bond funds, University of Hawaii revenue bond funds, Hawaii housing authority bond funds, and grants, to be expended by the department of accounting and general services, unless otherwise specified. The letter symbols used after the specific project appropriations, if any, indicate the source of financing

and have the following meanings: (A) general fund, (B) special fund, (C) general obligation bond fund, (D) general obligation bond fund with debt service cost to be paid from special funds, (E) revenue bond funds, (J) federal aid interstate funds, (K) federal aid primary funds, (L) federal aid secondary funds, (M) federal aid urban funds, (N) other federal funds, (P) state and local fiscal assistance (federal revenue sharing) funds, (R) private contributions, (S) county funds, (T) trust funds, (U) interdepartmental transfers, (W) revolving funds, (X) other funds.

For those projects involving a combination of funds but not necessarily all of the above, the drafter should word the first section accordingly and not mention those types of funds not being appropriated. See Examples 8-1, 8-7, and 8-8.

c. Matching Funds

If an appropriation is to be on a matching basis, generally the word *matching* means 50 per cent state funds to be appropriated against 50 per cent of whatever other funds are designated. See Example 8-9, second alternative. If the proportion is to be other than 50-50, then the phrase *matching fund* is not used, and the dollar figures or percentages are used instead. See Example 8-9, first alternative.

d. Exceeding the General Fund Expenditure Ceiling

Pursuant to article VII, section 9, of the State Constitution, no appropriation in excess of the ceiling set by the Legislature shall be authorized unless the bill:

- (1) Sets forth the dollar amount and the percentage rate by which the ceiling will be exceeded;
- (2) States the reason for exceeding the expenditure ceiling; and
- (3) Is passed by a two-thirds majority of each house.

The following boilerplate language would be used:

SECTION . In accordance with article VII, section 9, of the Constitution of the State of Hawaii and sections 37-91 and 37-93, Hawaii Revised Statutes, the legislature has determined that appropriations contained in this Act will cause the state general fund expenditure ceiling for fiscal year 19__-19__ to be exceeded by \$, or per cent. The reasons for exceeding the general fund expenditure ceiling are that the appropriations made in this Act are necessary to serve the public interest and to meet the needs provided for by this Act.

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e. Appropriation Measures Passed Before Budget

Article VII, Section 9, of the State Constitution generally prohibits appropriation bills from being passed on final reading until the general appropriation (budget) bill is sent to the governor. The only exceptions are bills to cover expenses of the legislature, and bills recommended by the governor for immediate passage.

Accordingly, bills recommended for immediate passage should contain language to the effect of:

This Act is recommended by the governor for immediate passage in accordance with article VII, section 9, of the constitution of the State of Hawaii.

f. Lapsing

Appropriations from general obligation bond funds and general funds are automatically lapsed at the end of the fiscal period for which appropriated which shall not exceed three years, Article VII, section 11, of the State Constitution, see also section 40-66, Hawaii Revised Statutes. Appropriations from other funds, for example, special funds should be lapsed back into the fund from which appropriated as in the example below. Appropriations to a revolving fund do not need to be lapsed. An authorization to issue bonds other than general obligation bonds should also be lapsed.

Example:

Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 19__ shall lapse into the _____ fund.

5. Amending Prior Appropriations

Appropriations made in previous years may be amended.

Example:

SECTION ____ . Act 197, Session Laws of Hawaii 1971, section 2, part III, item H. 1., is amended to read as follows:

"1. [Hilo Rehabilitation Center] \$500,000
Hilo Human Development Center--for
construction and equipment."

OR

HAWAII LEGISLATIVE DRAFTING MANUAL

SECTION ____ . Act 187, Session Laws of Hawaii 1970, section 1, item I. 15., is amended to read as follows:

"15. [Rehabilitation Complex] [\$60,000] \$65,000
Human Development Center, Hilo, Hawaii-
-Plans, construction, equipment, and other
appurtenances for the [sheltered workshop]
center."

Example 8-1

H.B. or S.B. No. _____

A BILL FOR AN ACT

**AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS AND MAKING AN
APPROPRIATION FOR LEEWARD COMMUNITY COLLEGE, OAHU.**

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

SECTION 1. The director of finance is authorized to issue general obligation bonds in the sum of \$1,301,000, or so much thereof as may be necessary, and the same sum, or so much thereof as may be necessary, is appropriated for fiscal years 19__-19__, and 19__-19__, for the following projects for the Leeward community college, Oahu.

1. Site development, Leeward community college

Plans and construction work for site
development, Leeward community college. \$515,000

2. Library-administration building, Leeward community college

Plans, construction, and equipment for a
library-administration building consisting
of (1) adequate library facilities for an
initial enrollment of 1,200 to 2,000
students with approximately 21,000 square
feet of floor area with stack room for
55,000 books, (2) administration offices and
accessory use with approximately 13,000
square feet. 786,000

SECTION 2. The appropriations made for capital improvement projects authorized in this Act shall not lapse at the end of the fiscal biennium for which the appropriation is made; provided that all appropriations which are unencumbered as of June 30, 19__, shall lapse as of that date.

SECTION 3. The sum appropriated shall be expended by the University of Hawaii for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 19__.

INTRODUCED BY: _____

Example 8-2

H.B. or S.B. NO. _____

A BILL FOR AN ACT

MAKING AN APPROPRIATION FOR WAIPAHU INTERMEDIATE SCHOOL LIBRARY.

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

[If in the first year of a fiscal biennium]

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$400,000, or so much thereof as may be necessary for fiscal year 1995-1996, and the same sum, or so much thereof as may be necessary for fiscal year 1996-1997, to complete the construction of the Waipahu intermediate school library to accommodate increases in the school's student body and to conform to minimum specifications in size.

SECTION 2. The sum appropriated shall be expended by the department of accounting and general services for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 1996.

INTRODUCED BY: _____

[If in the second year of a fiscal biennium, section 1 should read]

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$400,000, or so much thereof as may be necessary, for fiscal year 1996-1997, to complete the construction of the Waipahu intermediate school library to accommodate increases in the school's student body and to conform to minimum specifications in size.

Note. The funds for this project also could have been appropriated through the sale of general obligation bonds. Capital projects may be paid for through appropriations from general revenues (i.e., the general fund).

Example 8-3

S.B. or H.B. NO. _____

A BILL FOR AN ACT

MAKING AN APPROPRIATION FOR THE SUPPORT OF THE AMERICA'S CUP IN HAWAIIAN WATERS.

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

SECTION 1. The America's Cup began 135 years ago as a leisurely yachting regatta, and has now become a huge international event which generates intense interest in the sport, travel, and technology. The benefits of hosting the America's Cup race to Hawaii include:

- (1) Substantial income to the State from excise and hotel room taxes;
- (2) The incremental effect on the entire community from the re-circulation of spending by the syndicates, their friends, families, supporters, and spectators;
- (3) The ongoing benefits resulting from exposure of Hawaii to millions of people worldwide, who will be watching the event on television;
- (4) The residual use of the facilities by the community; and
- (5) The opportunity to attract participants from all over the Pacific and the world to other major yachting events held in the State, once it becomes evident that Hawaii has the supporting facilities in addition to our excellent wind, sea, and climatic conditions.

This year's America's Cup race aroused pride and spirit in the citizens of Australia and New Zealand. The legislature would like to see that same pride and spirit aroused in Hawaii, along with the recognition, finally, throughout the world that Hawaii is indeed an important part of the United States.

The Governor's America's Cup Race Committee is already gathering information on the feasibility of attracting and hosting the next America's Cup. It is the understanding of the legislature that a site will be selected within months. Therefore, it is imperative that efforts toward attracting the America's Cup to Hawaii be continued and strengthened.

The purpose of this Act is to appropriate moneys toward and to express strong legislative support for the efforts to bring the America's Cup to Hawaii so that other contenders will be convinced that Hawaii's government, as well as its citizens, stand solidly behind our bid to host the race.

SECTION 2. There is appropriated out of the general revenues of the State of Hawaii the sum of \$300,000 or so much thereof as may be necessary for the fiscal period 19__-19__, for the support of the immediately forthcoming America's Cup in Hawaiian waters. The sum appropriated shall be utilized for the development of an environmental impact statement or environmental assessment as well as for necessary planning, analysis, and promotion. The environmental impact statement or environmental assessment shall include but not be limited to an assessment of the impacts on various sites which may be used to berth yachts participating in the America's Cup and shall especially address the impact on existing and planned recreational use of each site. Prior to the adoption of any final plans for the development of the necessary facilities required to host the America's Cup, the department of business, economic development, and tourism shall receive community input with regards to such plans via scheduled public hearings.

SECTION 3. The sum appropriated shall be expended by the department of business, economic development, and tourism for the purposes of this Act.

SECTION 4. This Act shall take effect on July 1, 19__.

INTRODUCED BY: _____

Example 8-4

H.B. or S.B. NO. _____

A BILL FOR AN ACT

MAKING AN APPROPRIATION FOR PLANS AND CONSTRUCTION FOR THE REGIONAL PARK IN KANEEOHE, OAHU.

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

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$350,000, or so much thereof as may be necessary for fiscal year 19__-19__, for a grant-in-aid to the city and county of Honolulu for plans and construction for the regional park in Kaneohe, Oahu. The regional park shall include but is not limited to the following: comfort station, meeting room, gymnasium, and playground facilities.

SECTION 2. The sum appropriated shall be expended by the city and county of Honolulu for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 19__.

INTRODUCED BY: _____

Example 8-5

H.B. or S.B. NO. _____

A BILL FOR AN ACT

RELATING TO SPECIAL PURPOSE REVENUE BONDS FOR G.N. WILCOX MEMORIAL HOSPITAL.

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

SECTION 1. The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

SECTION 2. Pursuant to part II, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue special purpose revenue bonds in a total amount not to exceed \$15,000,000, in one or more series for the purpose of assisting G.N. Wilcox Health Center Properties in financing an expansion and renovation project which includes a one hundred ten bed long-term care unit, consolidation and modernization of the utility building, expansion and modernization of a kitchen and cafeteria, and remodeling of the same day surgery and diagnostic imaging services area. The legislature finds and determines that the activity and facilities of G.N. Wilcox Memorial hospital constitutes a project as defined in part II, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to a health care facility.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to part II, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist health care facilities.

SECTION 4. The department of budget and finance is further authorized to issue from time to time refunding special purpose revenue bonds authorized in such principal amounts as the department shall determine to be necessary to refund the special purpose revenue bonds authorized in section 2.

SECTION 5. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 19__.

SECTION 6. This Act shall take effect upon its approval.

INTRODUCED BY: _____

Example 8-6

H.B. or S.B. NO. _____

A BILL FOR AN ACT

RELATING TO THE ISSUANCE OF SPECIAL PURPOSE REVENUE BONDS TO ASSIST
INDUSTRIAL ENTERPRISES.

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

SECTION 1. The legislature finds that relatively low prices for oil and gas have contributed to an alarming lack of concern for the development of alternative energy resources and that development of such resources should occur before a recurrence of the energy crisis of the 1970's. The legislature finds that part V, chapter 39A, Hawaii Revised Statutes, permits the State to financially assist industrial enterprises through the issuance of special purpose revenue bonds.

The legislature finds and declares that the issuance of special purpose revenue bonds under this Act is in the public interest and for the public health, safety, and general welfare of the State.

SECTION 2. Pursuant to part V, chapter 39A, Hawaii Revised Statutes, the department of budget and finance, with the approval of the governor, is authorized to issue in one or more series special purpose revenue bonds in a total amount not to exceed \$20,000,000 for the purpose of assisting Island Power Company, a Hawaiian corporation, in the construction and operation of the Honolii Stream Hydroelectric Project and related facilities on the Honolii stream in Hawaii county. The entire output of this plant shall be made available for use by members of the general public by sale to the Hawaii Electric Light Company. The legislature finds and determines that the activity and facilities of Island Power Company constitute a project as defined in part V, chapter 39A, Hawaii Revised Statutes, and the financing thereof is assistance to an industrial enterprise.

SECTION 3. The special purpose revenue bonds issued under this Act shall be issued pursuant to part V, chapter 39A, Hawaii Revised Statutes, relating to the power to issue special purpose revenue bonds to assist industrial enterprises.

SECTION 4. The authorization to issue special purpose revenue bonds under this Act shall lapse on June 30, 19__.

SECTION 5. This Act shall take effect upon its approval.

INTRODUCED BY: _____

Example 8-7

H.B. or S.B. NO. _____

A BILL FOR AN ACT

RELATING TO HIGHWAY IMPROVEMENTS AND PLANS RELATED THERETO.

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

SECTION 1. The following sums, or so much thereof as may be necessary for fiscal year 19__-19__, are appropriated or authorized, as the case may be, from moneys in the treasury received from special funds and federal grants to finance the following projects on Oahu. The letter symbols used after the specific project appropriations indicate the source of financing and have the following meaning: (B) special funds, (J) federal aid interstate highway funds, (K) federal aid primary highway funds.

- (1) Interstate route H-3 - Junction at H-1 to Kaneohe marine corps air station

Plans for construction of approximately 14.5 miles of four-lane divided highway from junction at H-1 to Kaneohe Marine Corps Air Station. \$ 310,000(B)
1,748,000(J)

- (2) Moanalua road improvement - Aiea to Puuloa road

Improvement of existing four-lane divided highway from Aiea to Puuloa road, including Puuloa road. 1,364,000(B)
1,115,000(J)

- (3) Installation of median guardrails on Kamehameha highway

Installation of median guardrails on Kamehameha highway from Plantation drive to Aiea stream bridge. 63,000(K)

SECTION 2. The sums appropriated shall be expended, and the bonds authorized shall be issued, by the department of transportation for the purposes of this Act. Any unexpended or unencumbered balance of any appropriation made by this Act as of the close of business on June 30, 19__ shall lapse into the fund from which appropriated. Any unissued balance of any authorization made by this Act as of the close of business on June 30, 19__ shall lapse.

SECTION 3. This Act shall take effect on July 1, 19__.

INTRODUCED BY: _____

Example 8-8

H.B. or S.B. No. _____

A BILL FOR AN ACT

MAKING AN APPROPRIATION FOR PLANS AND CONSTRUCTION FOR BEACH EROSION
CONTROL AT KEKAHA BEACH, KAUAI.

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

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$240,000 for fiscal year 19__-19__, of which sum \$90,000 shall be financed out of other federal funds, or so much thereof as may be necessary, for plans and construction of protective work to prevent further damage to beach and highway caused by sea erosion at Kekaha Beach, Kauai.

SECTION 2. The sum appropriated shall be expended by the department of transportation for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 19__.

INTRODUCED BY: _____

Example 8-9

H.B. or S.B. No. _____

A BILL FOR AN ACT

MAKING AN APPROPRIATION FOR PLANS FOR A COMMUNITY CENTER AT MANOA PARK,
OAHU.

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

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$20,000, or so much thereof as may be necessary for fiscal year 19__-19__, for plans for a community center at Manoa Park, Honolulu, Oahu; provided that no funds shall be made available under this Act unless the city and county of Honolulu provides \$30,000 for the purpose for which this sum is appropriated.

SECTION 2. The sum appropriated shall be expended by the city and county of Honolulu for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 19__.

INTRODUCED BY: _____

OR

A BILL FOR AN ACT

MAKING AN APPROPRIATION FOR A COMMUNITY CENTER AT MANOA PARK, OAHU.

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

SECTION 1. There is appropriated out of the general revenues of the State of Hawaii the sum of \$20,000, or so much thereof as may be necessary for fiscal year 19__-19__, for plans for a community center at Manoa Park, Honolulu, Oahu, to be matched by the city and county of Honolulu.

SECTION 2. The sum appropriated shall be expended by the city and county of Honolulu for the purposes of this Act.

SECTION 3. This Act shall take effect on July 1, 19__.

INTRODUCED BY: _____

Chapter 9

RESOLUTIONS AND CERTIFICATES

There are two types of resolutions used by the Hawaii Legislature--concurrent resolutions and single house resolutions. Concurrent resolutions express the sentiment of the Legislature, while single house resolutions express the sentiment of the adopting house. These resolutions do not have the force and effect of law. Therefore, there is not much point in trying to require someone to do something through a resolution. Instead, a resolution more appropriately requests the person, agency, or entity to do it.

Concurrent Resolutions

A concurrent resolution is adopted after passage at a single reading in each house. Once adopted, it is an official statement of both houses of the Legislature.

The distinctive clause in a concurrent resolution reads:

BE IT RESOLVED by the Senate (or House of Representatives, depending upon the house in which it is originally introduced) of the _____ Legislature of the State of Hawaii, Regular Session of 199__, the House of Representatives (or Senate) concurring,...

See Example 9-1.

Single House Resolutions

Single house resolutions are the simplest of resolutions and require only one reading in the house of introduction for adoption.

See Example 9-2.

Resolutions as Part of the Lawmaking Process

Despite the fact that resolutions do not have the force and effect of law, they can still play an important role in the lawmaking process.

See Example 9-3, which is a copy of Senate Concurrent Resolution 309, adopted during the 1995 regular session, requesting the Governor to return a bill to the Legislature for reconsideration after it had passed three readings in each house. Though actually only a request, the resolution is still a formal document expressing the sentiment of the Legislature, and provides formal documentation of this particular step in the enactment of the bill in question.

See Example 9-4, which is a sample of a resolution that can be used by one house of the Legislature to recall a bill from the other house.

In some instances, the Legislature is required by law to use resolutions to disapprove or approve certain executive agency actions. See for example section 171-50 (disapproval of land exchanges), section 171-53 (approval to lease submerged lands), and section 261-7 (disapproval of certain airport fees), Hawaii Revised Statutes.

Example 9-5 is an instance of how a resolution can have a significant impact despite not having the force and effect of law. In this case, the Legislature is expressing its sentiment for the purpose of ratifying a proposed amendment to the Constitution of the United States.

Drafting

Resolutions are generally drafted with the broadest *Whereas* paragraphs coming first and with more definitive statements following. Similar to statutory drafting, substantive resolutions, those requesting someone to do something, such as perform a study, should contain accurate statements in the *Whereas* paragraphs. Legislative drafters should remember that if someone is asked to perform an act or to do a study, etc., that person should be given a time by which to report back to the Legislature on the performance of the act or to submit the study. It should also be kept in mind that if a committee of either house is requested to perform an act in a resolution, the presiding officer of that house (*i.e.*, either the president of the senate or the speaker of the house) should be sent a copy of the resolution in addition to the chairperson of the committee. Unlike statutory drafting, state and county agencies and officials should be capitalized in resolutions.

Resolution titles may be amended. One way to avoid the problem of having to amend a title is to avoid placing the title of a department or agency in the title of a resolution.

Certificates

Both the Senate and the House of Representatives use certificates for congratulatory purposes. Certificates may be drafted in the same manner as resolutions through the use of *Whereas* statements and one *Be It Resolved* Statement (see Example 9-6), or they may be in simple paragraph format (see Example 9-7). The amount of space into which these statements may be placed varies between the Senate and the House of Representatives. The clerks of the respective houses should be consulted with respect to the types of certificates available and the forms required.

Caveat. In some instances congratulatory sentiments may still be conveyed through resolution. Therefore, the drafter should check with the requesting legislator to confirm which type of measure is desired. The drafter should check the rules of the particular chamber regarding any restrictions on the use of congratulatory resolutions.

Example 9-1

S.C.R. NO. _____

SENATE CONCURRENT RESOLUTION

URGING A CONCERTED NATIONAL EFFORT TO REPLACE THE CATALYTIC CONVERTERS ON AUTOMOBILES WITH ALTERNATIVE DEVICES.

WHEREAS, the federal Clean Air Act of 1970 established mandatory automobile emission standards and time schedules for their implementation by automobile manufacturers; and

WHEREAS, to meet the requirements of the Clean Air Act, automobile manufacturers have installed catalytic converters, muffler-type devices which chemically alter harmful automobile exhausts into harmless emission, on most cars built after 1974; and

WHEREAS, while catalytic converters enable automobile manufacturers to comply with the Clean Air Act, there is a question as to whether these devices are in the best interests of the general public; and

WHEREAS, for example, catalytic converters reportedly increase the price of new vehicles by an average cost of \$250; and

WHEREAS, because minimal amounts of lead, a common ingredient in conventional gasolines, seriously impairs the intended cleansing function of the catalytic converter, vehicles fitted with these devices must use only unleaded gasoline, which is more expensive than conventional gasolines; and

WHEREAS, the cost of replacing a defective catalytic converter with a new one is upwards of \$300 an installation; and

WHEREAS, in view of the high cost factors and other problems associated with the catalytic converter, the replacement of these devices with alternate technologies which may better serve the intended purposes of the catalytic converter is a matter of compelling national interest; now, therefore,

BE IT RESOLVED by the Senate of the _____ Legislature of the State of Hawaii, Regular Session of 19__, the House of Representatives concurring, that the President of the United States, the United States Congress, and all the State Legislatures are respectfully urged to join in a concerted national effort to do away with the use of catalytic converters in view of the concerns expressed in this Concurrent Resolution; and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, Hawaii's congressional delegation, and to each of the presiding officers of the legislative bodies of each state of the United States of America.

OFFERED BY: _____

Example 9-2

H.R. NO. _____

HOUSE RESOLUTION

CONCERNING THE POSTING OF PERFORMANCE BONDS BY ESCROW DEPOSITORIES.

WHEREAS, chapter 449, Hawaii Revised Statutes, enacted in 1967, regulates escrow depositories requiring among other things the posting of a bond of \$100,000 guaranteeing performance; and

WHEREAS, chapter 449, Hawaii Revised Statutes, also requires the posting of fidelity bonds and the maintenance of errors and omissions insurance; and

WHEREAS, it would seem that parties to escrows are protected by fidelity bonds and errors and omissions insurance; and

WHEREAS, it has become obvious that obtaining a performance bond of \$100,000 requires, in effect, the capital of \$100,000 and that this has resulted in putting several escrow companies out of business; now, therefore,

BE IT RESOLVED by the House of Representatives of the _____ Legislature of the State of Hawaii, Regular Session of 19__, that the Director of Commerce and Consumer Affairs is requested to examine the necessity for the performance bond required by section 449-9, Hawaii Revised Statutes; and

BE IT FURTHER RESOLVED that the Director of Commerce and Consumer Affairs, after consultation with the Attorney General and the Director of the Office of Consumer Protection, is requested to report findings and recommendations to the Legislature twenty days before the convening of the Regular Session of 19__; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to the Director of Commerce and Consumer Affairs, the Attorney General, and the Director of the Office of Consumer Protection.

OFFERED BY: _____

Example 9-3

RECALL OF BILL FROM GOVERNOR

S.C.R. NO. *

SENATE CONCURRENT RESOLUTION

REQUESTING THE GOVERNOR TO RETURN SENATE BILL NO. 1699, SENATE DRAFT 2, TO THE LEGISLATURE TO RECONSIDER ACTION TAKEN.

WHEREAS, Senate Bill No. 1699, Senate Draft 2, A BILL FOR AN ACT RELATING TO HOUSING LOAN AND MORTGAGE PROGRAM, was enrolled by the Senate to the Governor on April 12, 1995; and

WHEREAS, pursuant to Rule 57 of the Rules of the Senate, Eighteenth Legislature, when an error is discovered in a bill prior to its having received the approval of the Governor, the bill may be returned by Concurrent Resolution to the house last considering the bill for proper correction; now, therefore,

BE IT RESOLVED by the Senate of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, the House of Representatives concurring, that the Governor of the State of Hawaii is requested to return Senate Bill No. 1699, Senate Draft 2, to the Senate for proper correction; and

BE IT FURTHER RESOLVED that a certified copy of this Concurrent Resolution be transmitted to the Governor of the State of Hawaii.

OFFERED BY: _____

**See Senate Concurrent Resolution No. 309, Eighteenth Legislature, 1995.*

Example 9-4

RECALL OF BILL BY ONE HOUSE FROM ANOTHER

H.R. NO. _____

HOUSE RESOLUTION

REQUESTING THE SENATE TO RETURN HOUSE BILL NO. ____.

BE IT RESOLVED by the House of Representatives of the _____
Legislature of the State of Hawaii, Regular Session of 19__, that the Senate
is requested to return to the House of Representatives H.B. No. _____ for
reconsideration; and

BE IT FURTHER RESOLVED that a certified copy of this Resolution be
transmitted to the President of the Senate.

OFFERED BY: _____

Example 9-5

**RATIFICATION OF AMENDMENT
TO UNITED STATES CONSTITUTION**

S.C.R. NO. _____*

SENATE CONCURRENT RESOLUTION

RATIFYING A PROPOSED AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES
PROVIDING FOR EQUAL RIGHTS UNDER THE LAW WITHOUT DISCRIMINATION ON
ACCOUNT OF SEX.

WHEREAS, the Congress of the United States has proposed an amendment to
the Constitution of the United States to prohibit the denial or abridgment of
equal rights under the law on account of sex; and

WHEREAS, the transformation of our legal system to one which establishes
equal rights for men and women under the law is long overdue; and

WHEREAS, what was begun in the Nineteenth Amendment to the United States
Constitution, extending to women the right of franchise, should now be
completed by guaranteeing equal treatment to women in all areas of legal
rights and responsibilities; and

WHEREAS, the proposed Equal Rights Amendment provides for the
establishment of complete legal equality so that before the law women and men
will be treated without discrimination and individuals will be accorded the
dignity and respect to which they are entitled politically and morally; and

WHEREAS, House Joint Resolution 208, approved by the Ninety-Second
Congress, Second Session, reads as follows:

HOUSE JOINT RESOLUTION 208

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States relative
to equal rights for men and women.

Resolved by the Senate and House of Representatives of the United States
of America in Congress assembled (two-thirds of each House concurring
therein), that the following article is proposed as an amendment to the
Constitution of the United States, which shall be valid to all intents and

*See Senate Concurrent Resolution No. 39, Sixth Legislature, 1972.

purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several states within seven years from the date of its submission by the Congress;

"ARTICLE

Section 1. Equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. The Congress shall have the power to enforce, by appropriate legislation, the provisions of this article.

Section 3. This amendment shall take effect two years after the date of ratification.";

now, therefore,

BE IT RESOLVED by the Senate of the Sixth Legislature of the State of Hawaii, Regular Session of 1972, the House of Representatives concurring, that the Article proposed as an amendment to the Constitution of the United States as set forth in United States House Joint Resolution 208, dated March 22, 1972, be hereby ratified by the Legislature of the State of Hawaii; and

BE IT FURTHER RESOLVED that a certified copy of this Concurrent Resolution be transmitted to the Administrator, United States General Services Administration, and that certified copies of this Concurrent Resolution also be transmitted to the President of the United States Senate and to the Speaker of the United States House of Representatives and to the members of Hawaii's delegation to the Congress of the United States.

OFFERED BY: _____

Example 9-6

CERTIFICATE

COMMENDING _____ (name) _____ ON ATTAINING
RANK OF EAGLE SCOUT

WHEREAS, the Boy Scouts of America have established a proud tradition of service to the boys and young men of Hawaii, encouraging them in the development of physical fitness, in the building of their personal and moral character, and by training and involving them in the responsibilities of citizenship; and

WHEREAS, the Boy Scouts, to promote these ideals, encourage their scouts to always strive toward the highest goals and to fully develop and apply their talents through the earning of merit badges; and

WHEREAS, the prestigious Eagle Award is the highest distinction that a scout can earn, requiring not only the attainment of 21 merit badges, but also the demonstrated qualities of leadership, dedication to community and country, personal initiative and perseverance, a willingness to help others, and the upholding of the scout oath and scout laws; and

WHEREAS, while the Eagle Award has been presented at the Palolo Troop 141 Eagle Court of Honor to _____ (name) _____ for his personal achievements and performance, it is also recognized that this honor shines upon Scout Master _____ (name) _____, Assistant Scout Masters _____ (name) _____ and _____ (name) _____, without whose support and encouragement this level of excellence could not have been attained; now, therefore,

BE IT RESOLVED by the House of Representatives of the _____ Legislature of the State of Hawaii[, Regular Session of 19__,*] that this body hereby congratulates and commends _____ name _____ for attaining the rank of Eagle Scout and wishes him continued success in all his future endeavors.

**Include bracketed material if certificate is awarded during legislative session. Do not include if awarded during interim.*

Example 9-7

SENATE CERTIFICATE

HONORING MERLE K. LAI FOR TWENTY YEARS OF
DISTINGUISHED PUBLIC SERVICE

Councilwoman Merle K. Lai, a Kamehameha Schools and University of Hawaii graduate, began her career in public service in 1972 as Administrative Assistant and Information and Complaints Officer for Mayor Shunichi Kimura. In 1975 she was appointed to fill an unexpired term of a departing County Council member and went on to win four consecutive general elections. During her tenure as a Councilwoman, Merle K. Lai's style of leadership has been a model for women in Hawaii politics.

As a champion of human services and public safety issues, Councilwoman Lai has amassed numerous accolades and was named as an Outstanding Young Woman of America from 1975-1978 and listed in "Who's Who of American Women" and the "World Who's Who of Women."

Merle K. Lai is retiring on December 7, 1992 after twenty years of exemplary public service and will be honored on October 17, 1992 at a Testimonial Luncheon sponsored by U.S. Congresswoman Patsy T. Mink and Councilwoman Helene H. Hale. The Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, congratulates Merle K. Lai for her years of meritorious service and wishes her prosperity and happiness in all her future endeavors.

Chapter 10

COMMITTEE REPORTS

Committee reports should be carefully prepared and should spell out legislative intent where necessary. The committee report may be referred to by courts and attorneys as evidence of what was sought to be achieved by the adoption of the measure to which it refers. Ambiguities, which puzzle the administrator called upon to enforce the measure enacted into law or a court seeking to interpret the measure, may be resolved by the committee report.

The official rules of procedure adopted by the respective houses of the Legislature govern the reporting of matters referred to committees of the Legislature. The requirement, substance, and form of the committee reports are generally delineated in the rules.

A committee preparing to report a bill out of committee by a committee report is also responsible for determining whether the bill is technically accurate. Typographical errors and failure to include the latest language of a statute or session law can be made by any office. This means that committee staff must check the wording of the bill against the Hawaii Revised Statutes provision or session law being amended to ensure that no typographical errors exist and that all amendments to that relevant statute have been included. This check must be made whether or not the committee has recommended that the bill be amended. Such a check means that the committee staff makes a word for word, comma for comma, etc., check against the proper and latest version of the Hawaii Revised Statutes or session law. It should be remembered that a session law is not the latest version, if any part of that session law was to be placed in the Hawaii Revised Statutes. The bill should be checked for technical drafting requirements, such as Ramseyer, effective date provisions, and other requirements set forth in this manual. If any errors are found, then the bill should be corrected and an amended version passed out of committee.

Generally, committee reports should be brief and to-the-point, without sacrificing any essential information necessary to understand a bill. They should be organized and simply written using relatively short sentences and paragraphs. For the most part, committee reports should be easily understood by a layperson.

1. Standing Committee Reports

In drafting standing committee reports (as opposed to conference committee reports), the drafter must remember that a different committee report format is used in the House and the Senate. See Examples 10-1, 10-2, and 10-3.

After the salutation a committee report usually contains the following parts in order:

- a. The first paragraph refers to the number and full title of the measure being reported upon.
- b. The second paragraph should set forth the purpose of the measure *as received by the committee* even though the committee may have changed the purpose. If the committee did change the purpose of the measure, the amended purpose should be set forth in a subsequent paragraph where amendments are explained.

Caveat. Be sure to check bill title if purpose is amended in order to ensure that the amended bill still fits within the scope of the title, which cannot be changed.

Suggestions for Drafters:

- (1) The "purpose" statement is sometimes the most difficult part of the committee report to write. It must be general enough so as not to bog-down the reader in detail, but it must also be something more specific than the title. The purpose statement is often most useful if kept to a one sentence paragraph usually two to three lines in length. Anything longer than this may contain too much information and may confuse the reader.
 - (2) If necessary, a more detailed explanation or elaboration of the purpose statement may follow in the second paragraph. This is also a good place to define words, or explain statutory phrases or concepts that may be foreign to the reader. A good rule is if you do not know, the reader probably does not know either.
 - (3) The purpose statement should not focus upon the structural changes being made to the HRS (e.g., The purpose of this bill is to amend section 11-121, Hawaii Revised Statutes.). The fact that a section of the HRS was amended does little to explain the purpose of a bill, unless the structural change is itself the purpose of the bill. Focus on the content of the substantive changes being made to the law.
 - (4) If there is more than one purpose to a bill, one of two approaches may be used. First, if one purpose appears to be more important than another, use the more important purpose as "the" purpose of the bill, and explain any other purposes in the next paragraph. In the alternative, it may be possible to create a general purpose statement that reflects the multi-purpose nature of the bill, followed by a more thorough explanation in the next paragraph. The danger with this approach is that if the purpose statement is too general, it may just duplicate the title (e.g., The purpose of this bill is to amend the laws relating to the penal code.). Multiple purpose statements are frequently difficult to write.
 - (5) For legislators, many of whom read the same committee report at different stages of the legislative process, the purpose statement should serve to quickly remind them of exactly which bill they are reading. Thus, a good purpose statement should not only describe a bill in the briefest of terms, but also distinguish it from similar bills.
- c. The next paragraphs may present a discussion of the problem that is the impetus for the bill and other facts relevant to the measure being reported upon.

Suggestions for Drafters: Sometimes a brief historical analysis of the problem may be warranted, but usually a short discussion of the problem (which often is the status quo) is sufficient. Logically, after an explanation of the problem, a

COMMITTEE REPORTS

brief discussion as to how the bill will solve the problem should follow. Generally, avoid enumerating arguments. A narrative approach that is brief and well-written is usually more effective.

- d. Next the full listing of any significant, or at least substantive, amendments prepared by the committee should be set forth and any reasons for such amendments. Also, if the purpose of the bill has been altered substantially, the amended purpose should be set forth in this paragraph.

Suggestions for Drafters:

- (1) Ideally, a discussion of the problem followed by a discussion of the bill, should logically lead to a discussion of the Committee's amendments. Once again, focus on the substantive content of the amendments, rather than the changes to the HRS structure.
- (2) With respect to the use of testimony submitted at a committee hearing, generally, a simple listing of testifiers itself adds little to a committee report. Sometimes a list of testifiers can bolster a committee's action, but specific testimony is usually mentioned only if the committee chair or members so request, it clarifies the intent of the bill, or the committee adopted that testifier's recommended amendments to a bill.
- (3) In focusing on amendments being proposed to a law, drafters should keep the following example in mind.

Example:

Compromises: With the approval of the governor, compromise any claim of \$50,000 or more arising under any tax law the administration of which is within the scope of the department's duties[.], and to compromise any claim less than \$50,000 without seeking the approval of the governor.

The amendment is a classic example of the type that often leads to misleading statements in committee reports. By focusing primarily on the first amendment you see, the classic mistake is to say that the bill "requires the Governor to approve compromises of tax claims over \$50,000".

While this may be a correct statement of what the law will be if the amendment takes effect, it is completely wrong as a statement of the changes to the law being made by the bill. Under the status quo, all compromises have to be approved by the Governor. Therefore, the more appropriate statement would be that the bill "eliminates the requirement that the Governor approve compromises of tax claims of under \$50,000.

- e. The final paragraph should clearly state the committee's recommendations as to the action to be taken. Generally, bills and resolutions are reported out of committee and referred to another committee or pass second or third reading. If a bill is reported to a second committee, it should also pass second reading at that time to move the bill along in the legislative process. For different referral language, see Examples 10-4 and 10-5.

2. Committee of the Whole Reports

Although seldom occurring, either the Senate or the House of Representatives may wish to refer a bill to the Committee of the Whole. This type of committee report will follow the format used by a standing committee report. See Example 10-6.

3. Governor's Messages

The Senate considers gubernatorial nominations that are transmitted to the Senate by a Governor's Message. After consideration by a standing committee these messages are reported to the Senate for advice and consent. See Example 10-7.

4. Dissenting or Minority Reports

The drafter may be called upon to prepare a committee report in opposition to the recommendation to the majority of the committee. This type of committee report may be either a dissent to the standing committee report or a minority report. See Examples 10-8 and 10-9.

5. Conference Committee Reports

If the measure is referred to a conference committee, a conference committee report must be prepared if the bill is reported from the committee. The format for conference committee reports differ slightly depending on whether they are prepared by the Senate or the House of Representatives. The presiding officer of the house preparing the report is listed first. See Examples 10-10 and 10-11. The last page of the committee report is also different with the managers on the part of the house reporting the bill being on the right. See Examples 10-10 and 10-11.

Caveat. If a bill is reported out of a conference committee, decked for final reading, and later recommitted to the conference committee for further amendment **without** adoption of the committee report on conference draft 1, then the conference committee report for conference draft 2 of the bill should reiterate the legislative findings, discussion, and amendments contained in the conference committee report to conference draft 1, as well as noting the amendments made in conference draft 2. This is to provide total documentation of discussions and amendments made by the legislature in a committee report adopted by the legislature. See Example 10-12.

If the measure is returned to the Legislature by veto of the governor, a further committee report will be required if the Legislature desires to amend the measure to meet the objections of the governor. See Example 10-13.

Example 10-1

HOUSE STANDING COMMITTEE REPORT
(Joint Referral)

STAND. COM. REP. NO.

Honolulu, Hawaii

_____, 19__

RE: H.B. No. 324

H.D. 1

Honorable (name)
Speaker, House of Representatives
____ State Legislature
Regular Session of 19__
State of Hawaii

Sir:

Your Committees on Public Safety and Military Affairs and Labor and Public Employment, to which was referred H.B. No. 324 entitled:

Title

"A BILL FOR AN ACT RELATING TO THE OFFICE OF SHERIFF,"

beg leave to report as follows:

The purpose of this bill is to establish the salaries of the Sheriff and First Deputy Sheriff.

Purpose

Under present law the Sheriff is the sole salary earner in that office. The Sheriff's deputies are paid only service fees, and therefore cannot be expected to relieve the Sheriff for a protracted period. Moreover, whenever the Sheriff is away from the office due to illness or other cause, a supervisory problem occurs.

Discussion

Your Committees are in agreement that the state attorney general, under whose purview the Sheriff's office comes, establish the salaries of the Sheriff and the first deputy. Such salaries would be subject to the scrutiny of the Governor, the Director of Finance, and the Legislature during that period when the state operating budget is subject to review.

The Attorney General's budget now includes a request for \$9,900 for the purpose of paying the Sheriff's statutorily set salary. Your Committees have amended this bill for the purpose of appropriating the additional funds necessary to carry out the purposes of this Act by adding a new section appropriating \$9,000.

Amendment

For the purposes of consistency your Committees have also amended the bill by renumbering sections 3, 4, 5 to sections 4, 5, 6 respectively.

Amendment

As affirmed by the records of votes of the members of your Committees on Public Safety and Military Affairs and Labor and Public Employment that are attached to this report, your Committees are in accord with the intent and purpose of H.B. No. 324, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 324, H.D. 1, and be placed on the calendar for Third Reading.

Recommendation

Respectfully submitted on behalf of the members of the Committees on Public Safety and Military Affairs and Labor and Public Employment,

COMMITTEE ON LABOR AND PUBLIC
EMPLOYMENT

COMMITTEE ON PUBLIC SAFETY
AND MILITARY AFFAIRS

NAME, Chair

NAME, Chair

Example 10-2

**SENATE STANDING COMMITTEE REPORT
(Single Referral)**

STANDING COMMITTEE REPORT NO.

Honolulu, Hawaii
_____, 19__

RE: S.B. NO. 456
S.D. 1

Honorable (name)
President of the Senate
_____ State Legislature
Regular Session of 19__
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 456 entitled:

"A BILL FOR AN ACT RELATING TO MARRIAGE LICENSES ISSUED BY THE DEPARTMENT OF HEALTH,"

begs leave to report as follows:

The purpose of this bill is to eliminate the three-day waiting period between the filing of a marriage application and the issuance of a marriage license.

A memorandum submitted by the Director of Health indicated that in recent years the waiting period has been largely waived by the courts (an example given from the January 1979 figures showed 203 waivers out of 544 applications).

Your Committee adopted the recommendation of the Department of Health by amending section 1 of the bill by adding the phrase:

"any other items required by the standard marriage certificate as recommended by the Public Health Service, National Center for Health Statistics, subject to approval of and modification by the department of health".

Title

Purpose

Discussion

Amendment

The purpose of the amendment to the bill is to enable the Department of Health, as a member of the national marriage registration area, to meet the requirements requested of a member state.

Amendment

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 456, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 456, S.D. 1, and be placed on the calendar for Third Reading.

Recommendation

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,

NAME, Chair

Example 10-3

STANDING COMMITTEE REPORT ON RESOLUTION

STAND. COM. REP. NO.

Honolulu, Hawaii
_____, 19__

RE: S.C.R. No. 43

Honorable (name)
Speaker, House of Representatives
____ State Legislature
Regular Session of 19__
State of Hawaii

Sir:

Your Committee on Water and Land Use Planning, to which was referred S.C.R. No. 43 entitled:

"SENATE CONCURRENT RESOLUTION REQUESTING HAWAII'S CONGRESSIONAL DELEGATION TO SEEK THE EARLY RETURN AND STATIONING OF RESEARCH VESSEL CROMWELL,"

Title

begs leave to report as follows:

The purpose of this concurrent resolution is to request Hawaii's congressional delegation to seek the early return and stationing here of the Marine Fisheries Service vessel, Cromwell, or a similar vessel to carry out federal and state fisheries research and to support University of Hawaii projects.

Purpose

Your Committee finds that in the past the research vessel, Cromwell, has been beneficially involved in research projects on a cooperative basis with the university and other research institutions in the State. Its absence from Hawaiian waters has greatly curtailed this research.

Discussion

As affirmed by the record of votes of the members of your Committee on Water and Land Use Planning that is attached to this report, your Committee concurs with the intent and purpose of S.C.R. No. 43 and recommends its adoption.

Recommendation

Respectfully submitted on behalf of the members of the Committee on Water and Land Use Planning,

NAME, Chair

Example 10-4

PREFERRED LANGUAGE FOR THE RECOMMENDATION SECTION OF COMMITTEE REPORTS

Check the computer for the latest status or the jacket accompanying the bill to determine if there is a subsequent referral after consideration by the committee so that the wording in the recommendation paragraph will be correct.

The specific requirements of a recommendation paragraph will vary according to the action required. This in turn can be affected by one or more variables including:

- (1) Whether the measure has been referred to a single committee, or to two or more committees in a series (double or triple referral);
- (2) Whether the measure is presently being considered by a single committee, or two or more committees jointly;
- (3) Where the measure is within the process, including:
 - (A) Whether the measure is up for passage on Second or Third reading, or simply being referred to a subsequent committee without intervening passage on a reading; and
 - (B) The identity of the next committee(s) to which the measure has been referred; and
- (4) Whether the instant committee is:
 - (A) Passing the measure:
 - (i) Unamended;
 - (ii) In an amended form; or
 - (B) Recommitting the measure.

The following examples are organized according to whether the committee to which a bill is referred, is:

- (1) A single referral, or the first, second, or last committee in a double or triple referral;
- (2) Moving the measure in unamended or amended form; and
- (3) A single or joint committee.

1. SINGLE REFERRALS
(For bills up for Second Reading and placed on calendar for Third Reading)

a. Unamended / Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee name] that is attached to this report, your Committee is in accord with the intent and purpose of [Bill No.] and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

b. Unamended / Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary referral Committee name] and [Secondary referral Committee name] that are attached to this report, your Committees are in accord with the intent and purpose of [Bill No.] and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

c. Amended / Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee name] that is attached to this report, your Committee is in accord with the intent and purpose of [Bill No., as amended herein, and recommends that it pass Second Reading in the form attached hereto as [Bill No. and Draft No.], and be placed on the calendar for Third Reading.

d. Amended / Joint Committee

As affirmed by the records of votes of the members of your Committees on [Primary referral Committee name] and [Secondary referral Committee name] that are attached to this report, your Committees are in accord with the intent and purpose of [Bill No.], as amended herein, and recommend that it pass Second Reading in the form attached hereto as [Bill No. and Draft No.], and be placed on the calendar for Third Reading.

2. FIRST COMMITTEE OF A DOUBLE OR TRIPLE REFERRAL
(For bills up for Second Reading and referral to next committee)

a. Unamended / Single Committee

As affirmed by the record of votes of the members of your Committee on [Committee name] that is attached to this report, your Committee is in accord with the intent and purpose of [Bill No.] and recommends that it pass Second Reading and be referred to the Committee on [Committee name].

b. Unamended / Joint Committee

As affirmed by the records of votes of the members of your Committees on [*Primary referral Committee name*] and [*Secondary referral Committee name*] that are attached to this report, your Committees are in accord with the intent and purpose of [*Bill No.*] and recommend that it pass Second Reading and be referred to the Committee on [*Committee name*].

c. Amended / Single Committee

As affirmed by the record of votes of the members of your Committee on [*Committee name*] that is attached to this report, your Committee is in accord with the intent and purpose of [*Bill No.*], as amended herein, and recommends that it pass Second Reading in the form attached hereto as [*Bill No. and Draft No.*], and be referred to the Committee on [*Committee name*].

d. Amended / Joint Committee

As affirmed by the records of votes of the members of your Committees on [*Primary referral Committee name*] and [*Secondary referral Committee name*] that are attached to this report, your Committees are in accord with the intent and purpose of [*Bill No.*], as amended herein, and recommend that it pass Second Reading in the form attached hereto as [*Bill No. and Draft No.*], and be referred to the Committee on [*Committee name*].

**3. SECOND COMMITTEE OF A TRIPLE REFERRAL
(For bills to be referred to next committee)**

a. Unamended / Single Committee

As affirmed by the record of votes of the members of your Committee on [*Committee name*] that is attached to this report, your Committee is in accord with the intent and purpose of [*Bill No.*] and recommends that it be referred to the Committee on [*Committee name*].

b. Unamended / Joint Committee

As affirmed by the records of votes of the members of your Committees on [*Primary referral Committee name*] and [*Secondary referral Committee name*] that are attached to this report, your Committees are in accord with the intent and purpose of [*Bill No.*] and recommend that it be referred to the Committee on [*Committee name*].

4. **SINGLE REFERRAL OR LAST COMMITTEE OF A DOUBLE OR TRIPLE REFERRAL BILL**
(For bills up for Third Reading only)

a. **Unamended / Single Committee**

As affirmed by the record of votes of the members of your Committee on [Committee name] that is attached to this report, your Committee is in accord with the intent and purpose of [Bill No.] and recommends that it pass Third Reading.

b. **Unamended / Joint Committee**

As affirmed by the records of votes of the members of your Committees on [Primary referral Committee name] and [Secondary referral Committee name] that are attached to this report, your Committees are in accord with the intent and purpose of [Bill No.] and recommend that it pass Third Reading.

c. **Amended / Single Committee**

As affirmed by the record of votes of the members of your Committee on [Committee name] that is attached to this report, your Committee is in accord with the intent and purpose of [Bill No.], as amended herein, and recommends that it pass Third Reading in the form attached hereto as [Bill No. and Draft No.].

d. **Amended / Joint Committee**

As affirmed by the records of votes of the members of your Committees on [Primary referral Committee name] and [Secondary referral Committee name] that are attached to this report, your Committees are in accord with the intent and purpose of [Bill No.], as amended herein, and recommend that it pass Third Reading in the form attached hereto as [Bill No. and Draft No.].

5. **RECOMMITTAL OF SHORT FORM BILL IN AMENDED FORM**

a. **Single Committee**

As affirmed by the record of votes of the members of your Committee on [Committee name] that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. _____, as amended herein, and recommends that it be recommitted to the Committee on [Committee name], for the purpose of holding a public hearing thereon, in the form attached hereto as [Bill No. and Draft No.].

b. Joint Committee

As affirmed by the records of votes of the members of your Committees on [*Primary referral Committee name*] and [*Secondary referral Committee name*] that are attached to this report, your Committees are in accord with the intent and purpose of [*Bill No.*], as amended herein, and recommend that it be recommitted to the Committees on [*Primary referral Committee name*] and [*Secondary referral Committee name*], for the purpose of holding a public hearing thereon, in the form attached hereto as [*Bill No. and Draft No.*].

6. CONFERENCE BILL (Up for Final Reading)

Your Committee on Conference is in accord with the intent and purpose of [*Bill No. and Draft Nos.*], as amended herein, and recommends that it pass Final Reading in the form attached hereto as [*Bill No. and Draft Nos.*].

Example 10-5

PREFERRED LANGUAGE FOR THE
RECOMMENDATION SECTION OF COMMITTEE REPORTS
FOR CONCURRENT RESOLUTIONS OR RESOLUTIONS

1. SINGLE REFERRAL OR LAST COMMITTEE OF A DOUBLE OR TRIPLE REFERRAL
RESOLUTION
(Recommending Adoption)

a. Unamended / Single Committee

As affirmed by the record of votes of the members of your Committee on [*Committee name*] that is attached to this report, your Committee concurs with the intent and purpose of [*Resolution No.*] and recommends its adoption.

b. Unamended / Joint Committee

As affirmed by the records of votes of the members of your Committees on [*Primary referral Committee name*] and [*Secondary referral Committee name*] that are attached to this report, your Committees concur with the intent and purpose of [*Resolution No.*] and recommend its adoption.

c. Amended / Single Committee

As affirmed by the record of votes of the members of your Committee on [*Committee name*] that is attached to this report, your Committee concurs with the intent and purpose of [*Resolution No.*], as amended herein, and recommends its adoption in the form attached hereto as [*Resolution No. and Draft No.*].

d. Amended / Joint Committee

As affirmed by the records of votes of the members of your Committees on [*Primary referral Committee name*] and [*Secondary referral Committee name*] that are attached to this report, your Committees concur with the intent and purpose of [*Resolution No.*], as amended herein, and recommend its adoption in the form attached hereto as [*Resolution No. and Draft No.*].

2. **FIRST COMMITTEE OF A DOUBLE REFERRAL RESOLUTION
OR SECOND COMMITTEE OF A TRIPLE REFERRAL RESOLUTION
(Recommending Referral to Next Committee)**

a. **Unamended / Single Committee**

As affirmed by the record of votes of the members of your Committee on [*Committee name*] that is attached to this report, your Committee concurs with the intent and purpose of [*Resolution No.*] and recommends that it be referred to the Committee on [*Committee name*].

b. **Unamended / Joint Committee**

As affirmed by the records of votes of the members of your Committees on [*Primary referral Committee name*] and [*Secondary referral Committee name*] that are attached to this report, your Committees concur with the intent and purpose of [*Resolution No.*] and recommend that it be referred to the Committee on [*Committee name*].

c. **Amended / Single Committee**

As affirmed by the record of votes of the members of your Committee on [*Committee name*] that is attached to this report, your Committee concurs with the intent and purpose of [*Resolution No.*], as amended herein, and recommends that it be referred to the Committee on [*Committee name*], in the form attached hereto as [*Resolution No. and Draft No.*].

d. **Amended / Joint Committee**

As affirmed by the records of votes of the members of your Committees on [*Primary referral Committee name*] and [*Secondary referral Committee name*] that are attached to this report, your Committees concur with the intent and purpose of [*Resolution No.*], as amended herein, and recommend that it be referred to the Committee on [*Committee name*], in the form attached hereto as [*Resolution No. and Draft No.*].

Example 10-6

COMMITTEE OF THE WHOLE REPORT

COMMITTEE OF THE WHOLE REPORT NO.

Honolulu, Hawaii

_____, 19__

RE: S.B. No. 184

S.D. 1

Honorable (name)
President of the Senate

State Legislature
Regular Session of 19__
State of Hawaii

Your Committee of the Whole, to which was referred S.B. No. 184 entitled:

"A BILL FOR AN ACT RELATING TO CAPITAL CRIMES,"

begs leave to report as follows:

The purpose of this bill is to reinstitute a non-mandatory death penalty for certain types of murder.

The Constitution of the United States and the Constitution of the State of Hawaii both expressly proscribe the infliction of cruel or unusual punishment.

Four years after its holding in *Furman v. Georgia*, 408 U.S. 238 (1972) foreclosed under the Federal Constitution executions under state laws then in existence, a majority of the Supreme Court of the United States held that the death penalty is a constitutionally permissible punishment, at least for carefully defined categories of murder. However, the Court went on to say that the 8th Amendment required the sentencing authority to be provided with carefully controlled discretion; a bifurcated trial was seen as the ideal procedure. Mandatory death penalty laws are, as a general rule, unconstitutional.

* * *

Your Committee has held a public hearing on this bill and has heard testimony from many interested persons on the arguments for and against capital punishments.

Your Committee has amended the bill in order to clarify the basic concepts relating to capital punishment and to conform other provisions of the Hawaii Penal Code.

This bill, as amended herein, would:

- (1) Provide that after determination of guilt in capital murder cases in which the death penalty may be imposed a separate sentencing proceeding shall be held.
- (2) Provide a new offense, called capital murder, in which the murder of the following persons or murder committed through the following actions shall be punishable by a sentence of death or life imprisonment without parole:
 - (A) The murder of a police officer, corrections personnel, parole officer, probation officer, county prosecuting attorney, or county attorney engaged in prosecutorial functions while in the performance of official duties;
 - (B) The murder of a judge during or because of the exercise of official duties.

* * *

Your Committee of the Whole is in accord with the intent and purpose of S.B. No. 184, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 184, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted,

Chair

Member

Member

Member

Member

ADVISE AND CONSENT

Consent

Example for Executive Appointments

As affirmed by the record of votes of the members of your Committee on Executive and Judicial Appointments that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee(s), has found the nominee(s) to be qualified for the position(s) to which nominated and recommends that the Senate advise and consent to the nomination(s).

Example for Judicial Appointments

As affirmed by the record of votes of the members of your Committee on Executive and Judicial Appointments that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, has found the nominee to be qualified for the position to which nominated and recommends that the Senate consent to the nomination.

Rejection

As affirmed by the record of votes of the members of your Committee on Executive and Judicial Appointments that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominee, recommends that the Senate reject the nomination.

Example 10-7

COMMITTEE REPORT FOR ADVICE AND CONSENT

STAND. COM. REP. NO. _____

Honolulu, Hawaii

_____, 19__

RE: GOVERNOR'S MESSAGE NOS. 178,
338, 339, 340, and 341

Honorable (name)
President of the Senate
____ State Legislature
Regular Session of 19__
State of Hawaii

Sir:

Your Committee on Executive and Judicial Appointments, to which were referred Governor's Message Nos. 178, 338, 339, 340, and 341, submitting for study and consideration the nominations of:

BOARD OF TAXATION REVIEW, FIRST TAXATION DISTRICT (OAHU)

G.M. No. 178 JAMES W. MASTERS for a term to expire June 30, 1996; and

G.M. No. 338 BARBARA PIIMAILE RICHARDSON, and DON I. SAKAI, for terms to expire June 30, 1999;

BOARD OF TAXATION REVIEW, SECOND TAXATION DISTRICT (MAUI COUNTY)

G.M. No. 339 MIMI S.J. HU for a term to expire June 30, 1999;

BOARD OF TAXATION REVIEW, THIRD TAXATION DISTRICT (HAWAII)

G.M. No. 340 ELMER A. VIEIRA for a term to expire June 30, 1999;

BOARD OF TAXATION REVIEW, FOURTH TAXATION DISTRICT (KAUAI)

G.M. No. 341 WILLIAM T. HONJIYO for a term to expire June 30, 1999,

begs leave to report as follows:

Upon review of the statements submitted by the nominees, your Committee finds that the aforementioned nominees will work with compassion and commitment to assist in administering the government functions related to tax appeals. Your Committee further finds that the nominees have been appointed

based upon their credentials, integrity, and a desire to make Hawaii better through their participation on the respective Boards of Taxation Review to which they have been nominated.

As affirmed by the record of votes of the members of your Committee on Executive and Judicial Appointments that is attached to this report, your Committee, after full consideration of the background, character, experience, and qualifications of the nominees, has found the nominees to be qualified for the positions to which nominated and recommends that the Senate advise and consent to the nominations.

Respectfully submitted on
behalf of the members of the
Committee on Executive and
Judicial Appointments,

NAME, Chair

Example 10-8

DISSENT TO STANDING COMMITTEE REPORT

DISSENT TO STAND. COM. REP. NO. 284

Honolulu, Hawaii

_____, 19__

RE: H.B. No. 852

H.D. 1

Honorable (name)
Speaker, House of Representatives
_____ State Legislature
Regular Session of 19__
State of Hawaii

Sir:

We the undersigned support the statuary hall commission's recommendation that Marisol Escobar be commissioned to execute the statue of Father Damien.

The most significant thing about the piece of sculpture representing Father Damien by Marisol Escobar is its high quality. The sculptress has chosen to represent the heroic strength of will and the great power of the inner spirit of Father Damien. She has done so with simplicity and insight, and the bronze figure therefore demonstrates the most durable features of Father Damien's life. Since this figure must be viewed by thousands of people of all kinds of backgrounds and from all places who have never seen Father Damien, in many cases have never heard of him, it is essential that the meaning of his life and the essence of his character be apparent. It is precisely to these things that this piece of sculpture is devoted. The upright figure illustrates both strength of purpose and a prevailing courage. The face is filled with travail and compassion, but it is not specifically a diseased face.

At the scale of over seven feet in height this figure would retain its dignity and its meaning. Anyone standing on the floor of Statuary Hall will necessarily be looking up at the figure and the fact that it is clear and forthright, skillful and profound, organized without superficial detail or misleading distractions on its surface will cause it to be one of the most compelling of all the figures of Statuary Hall.

We feel that questions as to its **avant-garde** character or its nature as a piece of contemporary art have no significance. Its characteristics and its form are of the kind which can make it endure and outlast numerous changes and fashions.

We believe that whatever shock it causes is the consequence of its forceful demand upon one's attention and its insistence upon making a sincere statement about a profound spiritual meaning in the life of Father Damien. It cannot be passed by casually nor will it be forgotten easily.

We believe that it is not only appropriate for its purpose, supremely fitting to the greatness of Father Damien, potentially a superb piece of sculpture with probable lasting values, but that the fees as outlined are reasonable.

We believe that the fact that the sculptress has chosen to deal with the spirit of Father Damien rather than with the incidental and momentary details of his physical experiences is precisely what will provide in this statue a work of which we may be proud for generations to come and a statement which will have many levels of meaning for many different people. It promises to be a moving statement about a most special man. It should therefore serve both as a mark of our respect for Father Damien and an inspiration. The powerful dignity of this statue makes both possible.

In conclusion, we reiterate our concurrence with the recommendations of the majority members of the statuary hall commission, and therefore do not recommend the passage of H.B. No. 852 on Third Reading.

Respectfully submitted,

NAME

NAME

NAME

Example 10-9

MINORITY REPORT ON CONFERENCE COMMITTEE REPORT

MINORITY REPORT ON
CONFERENCE COM. REP. NO.

Honolulu, Hawaii
_____, 19__

RE: S.B. No. 1295
S.D. 1
H.D. 2
C.D. 1

Honorable (name)
President of the Senate

State Legislature
Regular Session of 19__
State of Hawaii

Honorable (name)
Speaker, House of Representatives

State Legislature
Regular Session of 19__
State of Hawaii

*Reverse order if
prepared by House of
Representatives.*

Sir:

Your Minority members agree with the opening statement in Standing Committee Report No. 416 from the Senate Committee on Ways and Means wherein it was stated, "We need to understand and the people of Hawaii need to understand that government cannot be all things to all people." ... "Your Committee has made a critical examination of the requirements to maintain a level of services and operations that is both beneficial and progressive to the people of our State. Cognizant of the need to maintain a creditable case management position during these financial difficult times and still not overburden the people of our State, your Committee has taken an austere but responsive approach in appropriating funds for programs and projects. Mindful of this, your Committee where feasible has deferred programs and projects, reduced expenditures of certain programs, deleted vacant and new positions over and above the executive's abolishment of 620 positions, and is recommending adjustments to the State's funding structure."

It is appropriate at this time to preface our recommendations by quoting some of the governor's messages to the legislature:

State of the State Message - 1969

"The theme is prudent spending.
The tone is one of caution.
The policy is pay-as-we-go."

Executive Budget Message - 1970

"We are today, as in the rest of the nation, at a point where the immediate future economic picture is not clear. Observe in public print the many indications of a leveling economy. Observe also the efforts of the national government to cool the economy. Observe, if you will, evidences of a growing restlessness among those who must pay for the costs of government.

"These observations are made to indicate to you a basic rationale for many of the recommendations in the budget. We need, at this time, to weigh carefully the future financial implications of our actions today. We need to avoid where possible obligating the State to increased costs in the future. At the same time, we need, of course, to provide those services to our people which are necessary."

* * *

For these reasons, your Minority members on the Committee on Conference on S.B. No. 1295, S.D. 1, H.D. 2, C.D. 1, are not in accord with the intent and purpose of S.B. No. 1295, S.D. 1, H.D. 1, C.D. 1, and recommend that it not pass Final Reading.

Respectfully submitted,

NAME

NAME

NAME

Your Committee has amended this bill by deleting all sections relating to the renewal and payment of fees for general excise tax licenses and to the one-time licensing fee payment for all new and current licenses, and by amending the effective date to remove all references to these sections. Your Committee finds that H.B. No. 876, which eliminated the annual renewal and payment of fees for general excise tax licenses and provided for a one-time licensing fee for all new and current licenses, has already passed the Legislature and been sent to the Governor.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 977, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 977, H.D. 2, S.D. 1, C.D. 1.

Respectfully submitted,

MANAGERS ON THE PART OF THE SENATE

MANAGERS ON THE PART OF THE HOUSE

NAME, Chair

NAME, Co-Chair

NAME, Member

NAME, Co-Chair

NAME, Member

NAME, Member

NAME, Member

NAME, Member

NAME, Member

- (1) The impacts on residential consumers' cost of telephone service and telephone calling patterns;
- (2) The impacts on public service agencies who utilize telephone communications to provide services;
- (3) The impacts on business cost of telephone service and telephone calling patterns;
- (4) The potential for repression of usage;
- (5) The potential alternatives to local measured service; and
- (6) Other effects of the implementation of local measured service on various subscriber groups.

Your Committee upon further consideration has made the following amendments to S.B. No. 1427, S.D. 1, H.D. 1:

- (1) Added a new section 2, in accordance with section 9, article VII of the constitution of the State of Hawaii, setting forth the dollar amount and the rate by which the general fund expenditure ceiling is exceeded by the appropriation contained in the bill;
- (2) Renumbered consecutively the remaining sections and changed references in the bill to section numbers to conform to the renumbering; and
- (3) Made a few technical, nonsubstantive changes for purposes of style, clarity, and consistency.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1427, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1427, S.D. 1, H.D. 1, C.D. 1.

Respectfully submitted,

MANAGERS ON THE PART OF THE HOUSE

MANAGERS ON THE PART OF THE SENATE

NAME, Co-Chair

NAME, Co-Chair

NAME, Co-Chair

NAME, Co-Chair

NAME, Member

NAME, Member

the amendments, additions, and reductions will not have an adverse impact on the planned capital improvement program.

Upon reconsideration, your Committee has further amended this bill by correcting typographical errors and by changing the effective date from "July 1, 1988" to "upon its approval".

Your Committee believes that the projects contained herein reflect the legislature's continued commitment to projects which reflect the needs and desires of the people of the State of Hawaii.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3264-88, S.D. 1, H.D. 1, C.D. 1, as amended herein, and recommends it pass Final Reading in the form attached hereto as S.B. No. 3264-88, S.D. 1, H.D. 1, C.D. 2.

Respectfully submitted,

MANAGERS ON THE PART OF THE HOUSE

MANAGERS ON THE PART OF THE SENATE

NAME, Co-Chair

NAME, Co-Chair

NAME, Co-Chair

NAME, Co-Chair

NAME, Member

NAME, Member

NAME, Member

NAME, Member

- (B) He is actively and diligently seeking gainful employment; or
- (2) (A) He has exhausted all of his benefits if he is entitled to such benefits under chapter 383, Hawaii Revised Statutes; and
- (B) He has registered and is available for work as required by section 383-29(a)(2) and (3), Hawaii Revised Statutes.

Your Committee finds that the provisions of the bill may have inadvertently liberalized the general assistance program, contrary to its original purpose, and thereby allowing persons to "free-load" with their having no intention to seek or accept gainful employment. The bill actually allows for a person, after exhausting all of the person's benefits if the person is entitled to such benefits under chapter 383, Hawaii Revised Statutes, to merely register and become available for work as required by section 383-29(a)(2) and (3), Hawaii Revised Statutes. There are no mandatory provisions whereby the person must accept any employment when made available.

* * *

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2428-74, H.D. 1, S.D. 2, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2428-74, H.D. 1, S.D. 2, C.D. 2.

Respectfully submitted,

MANAGERS ON THE PART OF THE SENATE

MANAGERS ON THE PART OF THE HOUSE

NAME, Chair

NAME, Chair

NAME, Member

NAME, Member

NAME, Member

Appendix A

CONSTITUTIONAL AND STATUTORY PROVISIONS RELATING TO LEGISLATION

1. Constitutional Provisions:

Article III section	10	-	Sessions; Commencement; Duration; Recess
	12	-	Organization; Discipline; Rules; Procedure; Bill Introduction; Cut-off
	14	-	Bills; Enactment
	15	-	Passage of Bills
	16	-	Approval or Veto; Reconsideration after Adjournment
	17	-	Procedures upon Veto
Article V section	6	-	Limit on Departments
Article VI section	7	-	Supreme Court's Rulemaking Powers
Article VII section	2	-	Income Taxation
	4	-	Appropriations for Private Purpose Prohibited
	5	-	Expenditure Controls
	8	-	The Budget
	9	-	Legislative Appropriations; Procedures; Expenditure Ceiling
	11	-	Lapsing of Appropriations
	12	-	Definitions; Issuance of Indebtedness
	13	-	Debt Limit; Exclusions
Article VIII section	1	-	Political Subdivisions; Creation; Powers
	2	-	Local Self-Government; Charter
	3	-	Taxation and Finance
	4	-	Mandates; Accrued Claims
	5	-	Transfer of Mandated Programs
	6	-	Statewide Laws
Article X section	3	-	Power of Board of Education
	6	-	Board of Regents; Powers
Article XI section	5	-	Natural Resources: General Laws Required; Exceptions
	8	-	Nuclear Energy
Article XII section	1	-	Hawaiian Homes Commission Act
	3	-	Compact Adoption; Procedures after Adoption
Article XVI section	13	-	Plain Language
Article XVII section	1	-	Revision and Amendment; Methods of Proposal
	3	-	Amendments Proposed by Legislature
	4	-	Veto

2. Statutory Provisions:

Laws Generally

Sec.	1-1	Common law of State; exceptions
	1-2	Certain laws not obligatory until published
	1-3	Laws not retrospective
	1-4	Persons and property subject to laws
	1-5	Contracts in contravention of law
	1-6	Prohibitory law, effect
	1-7	Repeal of laws
	1-8	No revivor on repeal; exception
	1-9	Express or implied repeals
	1-10	Effect of repeal on accrued rights
	1-11	Effect of repeal on pending suit or prosecution

Construction of Laws

Sec.	1-12	Application of statutory construction provisions
	1-13	English version controls
	1-14	Words have usual meaning
	1-15	Construction of ambiguous context
	1-16	Laws in pari materia
	1-17	Number and gender
	1-18	"Or", "and"
	1-19	"Person", "others", "any"
	1-20	"Month", "year"
	1-21	"Oath"
	1-22	"County"
	1-23	Severability
	1-24	Interpretation of uniform acts
	1-25	References apply to amendments
	1-26	References inclusive
	1-27	Citations of laws included in supplements
	1-28	Service of notice by mail

Computation of Time and Holidays

Sec.	1-29	Computation of time
	1-30	Hawaiian standard time applicable
	1-31	Hawaiian standard time; definition; observance
	1-32	Acts to be done on holidays
	8-1	Holidays designated

See also:

Chapter 26	Executive and Administrative Departments
Chapter 26H	Sunset Law - Hawaii Regulatory Licensing Reform Act
Chapter 42	Grants, Subsidies, and Purchases of Services
Chapter 91	Administrative Procedure Act
Chapter 92	Sunshine Law - Public Agency Meetings and Records
Chapter 92F	Uniform Information Practices Act

Appendix B
SHORT FORM BILL CHECKLIST

(Particular short form bills may require only some of the items listed below. Bracketed terms are merely directive to drafters.)

A BILL FOR AN ACT

(Title)
RELATING TO, ETC.

(Enacting Clause)
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. **[Purpose]** The purpose of this Act is to,

SECTION 2. **[Means]**

(a) **[Organization]** There is created an commission.

(b) **[Powers and duties]** The commission shall, etc.

(c) **[Rules]** The commission may adopt rules necessary for the purpose of this Act.

(d) **[Restrictions and limitations]** This Act is applicable only to transactions made after the effective date of this Act.

(e) **[Penalties]**

SECTION 3. **[Appropriation]** There is appropriated, etc.

SECTION 4. **[Sections Affected]**

(a) Section is amended to conform to this Act.

(b) Section is repealed.

SECTION 5. **[Effective Date]** This Act shall take effect upon its approval.

Appendix C

**ADDING A NEW CHAPTER OR NEW SECTION TO THE
HAWAII REVISED STATUTES**

CHAPTER

SECTION 1. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

"CHAPTER

TITLE

PART I. TITLE

§ -1 Title. -----
-----,

§ -2 Title. -----
-----,

PART II. TITLE

§ -11 Title. -----
-----,

§ -12 Title. -----
-----."

SECTION

SECTION 1. The Hawaii Revised Statutes is amended by adding a new section to be appropriately designated and to read as follows:

"§ - Title. (a) -----
-----,

(b) -----
-----."

Appendix D
REPEALING AN EXISTING CHAPTER

H.B. or S.B. NO. _____

A BILL FOR AN ACT

RELATING TO PETROLEUM PRODUCTS.

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

SECTION 1. Chapter 451, Hawaii Revised Statutes, is repealed.

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

INTRODUCED BY: _____

Appendix E
HOUSE FLOOR AMENDMENT

AMENDMENT TO H.B. No. 143, H.D. 1

OFFERED BY: _____

DATE _____

SECTION 1. House Bill No. 143, H.D. 1, is amended by amending lines 17 to 21 on page 2 to read:

"twenty-five days after a copy of the decision has been sent to each party the director [of labor and industrial relations] may upon [his] the director's own motion or upon the application of any party reopen a case to permit the introduction of newly discovered evidence[,] or permit the testimony of further witnesses, and may render a revised decision."

Carried

Failed to Carry

Clerk, House of Representatives

(See chapter on Ramseyer format, section 6b. In addition to above, the House requires the complete bill being amended to be amended to conform to the floor amendment and submitted with the floor amendment.)

Appendix F
SENATE FLOOR AMENDMENT

FLOOR AMENDMENT NO. _____ DATE: _____

TO S.B. No. 761

SECTION 1. Senate Bill No. 761, section 1, is amended as follows:

1. By amending lines 5 and 6 on page 20 to read:

"(2) To sell or offer to sell a franchise in this State by means of any written or oral communication which includes an untrue statement of a material fact or"

2. By amending line 12 on page 26 to read:

"registration by filing with the director an application together"

Offered by _____

Carried

Failed to Carry

Withdrawn

(See chapter on Ramseyer format, section 6b. In addition to above, the Senate requires the page or pages of the bill being amended to be properly amended to conform to the floor amendment, typed, and submitted with the floor amendment.)

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