

**SCRep. 1148 (Joint) Planning, Land and Water Use Management and Public Safety and Corrections on H.B. No. 2078**

The purpose of this bill is to amend Act 151, Session Laws of Hawaii (SLH) 1991, by extending the expiration date of certain exemptions from July 1, 1994 to July 1, 1995.

Act 151, SLH 1991, exempts the Department of Public Safety (DPS) and the Office of Youth Services (OYS) from state and county requirements relating to the planning, land use, construction, renovation, or expansion of correctional facilities on their property in Kailua, Oahu. This Act enabled the DPS to expedite the rebuilding of the Women's Community Correctional Center (WCCC), which is in noncompliance with a consent decree entered into by the State and the American Civil Liberties Union (ACLU) in 1985 because of WCCC's inadequate and deteriorated physical plant. While funds for the construction of a new women's facility were authorized by the Legislature in 1989, the State's efforts have been stalled due to opposition to the construction of a facility on Mount Olomana by the public.

In order to avoid further delay and possible litigation by the ACLU and address concerns relating to the protection of the physical environment, the State devised an alternate plan to relocate the existing women's facility to HYCF and construct a new youth facility on the grounds of the WCCC. This plan requires the renovation of existing structures and the construction of new structures at both the present HYCF and WCCC facilities.

Since the enactment of Act 151, DPS has begun the renovation of the existing HYCF buildings, however, construction by OYS has fallen behind schedule, and the new youth facility is now projected to be completed sometime after October 1, 1994. Because HYCF residents currently occupy one of the cottages that will become part of the new WCCC, DPS will not be able to begin final renovation work until after HYCF residents move to their new facility, estimated to be sometime after January 1, 1995. Such a delay will mean that the effective period of Act 151, SLH 1991, will have lapsed before renovation is complete, and DPS will have to go through the time-consuming process of applying and obtaining permits and conducting environmental impact studies. Obviously, this will make compliance with the consent decree more difficult.

Your Committees find that this bill will allow DPS to expedite the final stage of WCCC renovation work to bring the State into compliance with the consent decree.

Your Committees on Planning, Land and Water Use Management and Public Safety and Corrections are in accord with the intent and purpose of H.B. No. 2078 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

**SCRep. 1149 Judiciary on H.B. No. 1400**

The purpose of this bill is to provide that the term "person aggrieved" shall include an agency that is a party to a contested case proceeding before either the same agency or a different agency.

The 1981 Model State Administrative Procedure Act, case law, and public policy would appear to support that an agency that is a party to a contested case, and is aggrieved by a decision of the body hearing the contested case, has standing to seek judicial review in the Circuit Court under the Hawaii Administrative Procedure Act.

Testimony relative to this measure was submitted by the Attorney General, the Department of Corporation Counsel of the City and County of Honolulu and the Department of Land Utilization of the City and County of Honolulu.

Your Committee has amended the bill by inserting the words "of adequate" in line 6 of the bill so as to clarify the right of judicial review of a preliminary ruling.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1400, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1400, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1150 Judiciary on H.B. No. 1593**

The purpose of this bill is to provide for an extension of time from December 31, 1993 to December 31, 1994 for all State and county government agencies to complete the public records report required by Section 92F-18(b), Hawaii Revised Statutes.

Pursuant to 92F-18(b), HRS, each State and county government agency is required to complete and file a public records report that describes the records it routinely uses or maintains. The reports must designate which records are public or confidential, and provide other information such as the records' location and uses.

Initially, the public records report was to be generated on paper with a completion date of July 1, 1989. However, due to the tremendous volume of information to be collected and reported, to be cost effective and efficient, automation was found to be critical for the project's ultimate success. Consequently, in 1989, 1991, and 1992, the Legislature extended the time for the agencies' completion of the records report and allowed for the development of an automated records report system. Accordingly, the Office of Informational Practices (OIP), advised all agencies to not begin the records report until the installation of the automated records report system was completed.



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In 1992, the Legislature appropriated funds for the hiring of critically needed support staff and consultants for the implementation of the automated records report system for when the installation was finally completed. However, due to severe budget restrictions that were imposed in July 1992, the appropriated funds were eliminated from OIP's budget. The elimination of these funds has severely strained the staff and resources of OIP and other government agencies in completing the records report. Because of the impact of the unexpected budgetary restrictions on the records report project, it will be impossible for the OIP to provide the support and assistance necessary for government agencies to complete the records report by December 31, 1993. Hence, the need for an extension of time.

Testimony in support of this measure was submitted by the OIP.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1593 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## LCRep. 1151 Executive Appointments on Gov. Msg. No. 277

Recommending that the Senate consent to the nomination of PAULA AIKO NAKAYAMA for Associate Justice of the State Supreme Court, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the State Constitution.

Signed by all members of the Committee except Senator Tungpalan.

## SCRep. 1152 Ways and Means on H.B. No. 2001

The purpose of this bill is to authorize the issuance by the department of budget and finance of special purpose revenue bonds for Wailuku River Hydroelectric Power Company, Inc.

Your Committee finds that Wailuku River Hydroelectric Power Company, Inc., is currently constructing a 10-megawatt hydroelectric power plant and ancillary facilities on the Wailuku River in Hawaii county. Your Committee further finds that Hawaii Electric Light Company, Inc. (HELCO) customers continue to experience electric energy shortages due to an inadequate supply of electric energy, and assistance for the development of an additional energy generation project would be beneficial to Hawaii county residents.

Your Committee finds that a similar bill was passed by the legislature in 1992 but vetoed by the governor due to a technical error. The governor has recommended immediate passage of this measure pursuant to Article VII, Section 9, of the State Constitution.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2001 and recommends that it pass Third Reading.

Signed by all members of the Committee.

## SCRep. 1153 (Joint) Planning, Land and Water Use Management and Agriculture on H.B. No. 1675

The purpose of this bill is to extend the sunset date of Act 237, Session Laws of Hawaii (SLH) 1988, as previously extended by Act 249, SLH 1990 and Act 69, SLH 1991, from July 1, 1993 to July 1995.

Act 237 authorized the Department of Land and Natural Resources to negotiate long-term leases with certain individuals holding revocable permits on state agricultural land. Until the enactment of Act 237, many of these individuals were farmers who held month-to-month leases with no assurance of tenure. Consequently, they were unable to secure financing for farm improvements and could not develop the land to its maximum potential.

Your Committees find that the extension of Act 237 will allow the Department to provide additional long-term leases to qualified permittees who depend on farming state land for their livelihood, and allow the State to realize greater returns from the long-term disposition of lands now under permit.

Your Committees have amended this bill by providing that agricultural leaseholds under Act 237 shall be exempt from all statutes, ordinances, charter provisions, and rules relating to standards for subdivision development. Your Committees find that the exemption will allow the Department to issue fifteen additional leases to permittees who would not otherwise qualify for long-term leases. Under the present subdivision ordinance, the lot sizes of these fifteen parcels are substandard and accordingly, the lots cannot be subdivided and leases cannot be issued. With the exemption, the lots can be subdivided and the State will be able to issue additional long-term agricultural leases to qualified permittees.

Additionally, your Committees have changed the proposed repeal date of Act 237 from July 1, 1995 to July 1, 1994. Your Committees believe that extension of Act 237 for one additional year is adequate for the Department to negotiate long-term leases with eligible permittees.

Finally, your Committees have extended the sunset date of Act 5, SLH 1987, as previously extended by Act 106, SLH 1991 and Act 58, SLH 1992, from July 1, 1993 to January 1, 1994. Act 5 authorizes the Department to negotiate and enter into long-term residential leases with the residents of Kahana Valley State Park in exchange for participation in the park's interpretive programs. This amendment was proposed by the Department of Land and Natural Resources and was supported by a representative of the Kahana Valley area, under the condition that the extension does not go beyond January 1, 1994. Your Committees find that this proposal will give the Department additional time needed to complete the recordation of Kahana Valley residential leases.