

STAND. COM. REP. NO.

1504

Honolulu, Hawaii

APR 10 2015

RE: H.B. No. 966
H.D. 1

Honorable Donna Mercado Kim
President of the Senate
Twenty-Eighth State Legislature
Regular Session of 2015
State of Hawaii

Madam:

Your Committee on Ways and Means, to which was referred H.B. No. 966, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO SECTION 237-23, HAWAII REVISED STATUTES,"

begs leave to report as follows:

The purpose and intent of this measure is to restore inadvertently repealed language to section 237-33, Hawaii Revised Statutes, relating to exemptions from the general excise tax, and to provide for the retroactive application of the amended statute.

Your Committee received written comments in support of this measure from the Department of Taxation. Your Committee received written comments on this measure from the Tax Foundation of Hawaii.

Your Committee finds that Act 184, Session Laws of Hawaii 2012, amended section 237-23, Hawaii Revised Statutes, to add potable water companies to the existing exemption provided to certain non-profit organizations. In the process, the words "as such" were inadvertently deleted from section 237-23. These words have been important to courts' past interpretations of the statute and should be returned to the statute to ensure consistent treatment of non-profit organizations entitled to this exemption. For example, in *In re Queen's Medical Center*, 66 Haw. 318 (1983), the Hawaii Supreme Court held that certain activities of a non-profit hospital were not entitled to the tax exemption, because the activities were not activities of a hospital "as such." In

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that court case, the presence of the phrase "as such" in the statute was critical to the Court's decision. Accordingly, your Committee finds that the restoration of these words to section 237-23, Hawaii Revised Statutes, would clarify the application of the tax exemption.

As affirmed by the record of votes of the members of your Committee on Ways and Means that is attached to this report, your Committee is in accord with the intent and purpose of H.B. No. 966, H.D. 1, and recommends that it pass Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Ways and Means,



JILL N. TOKUDA, Chair



