

SBH MEMBER
CALENDAR

PHONE 396-1724 • FAX: 396-1726

Monday, June 10

SBH Directors' Meeting
SBH Office • Hawaii Kai
12:00 noon

Thursday, June 27

SBH Sunrise Networking Breakfast
Vicky Cayetano
Pineapple Room
Macy's Ala Moana Center
7 – 8:30 am

Friday, September 20

6th Annual SBH Foundation Awards
Waiialae Country Club • 5 – 8 pm

Inside This Issue >



Where Do Food Stamps Come From?
See Page 3.

Smart Business Hawaii

<http://www.smartbusinesshawaii.com>

SBH Foundation

<http://www.sbhfoundation.org>

Education Transparency Portal

<http://www.educate808.com>

Twitter @SBH808

Facebook: **Smart-Business-Hawaii**

Hawaii Reporter

<http://www.hawaiireporter.com>

SmartBusiness
HAWAII

SBH Invites Young Professional Members

Decades ago, Smart Business Hawaii (SBH) reached out to Young Entrepreneurs with special business programs, membership and benefits. It was the first Hawaii business organization to do so.

At the monthly SBH Board meeting in May, the SBH Board voted unanimously to re-establish a special place within SBH for younger business owners. There are special programs, business events, social networking and programs designed by young people.

Mentors will include Hawaii Pacific University professors **Ken Schoolland** and **Bob Sigall** and several of their student leaders.

The **SBH Young Professionals** is now up and running. Annual dues are only \$75 if you are under 30. Contact us by email sbh@lava.net, go online (www.smartbusinesshawaii.com), or send in the reservation form on page 7 or call Darlyn at 396-1724 for details.



Vicky Cayetano to Speak at SBH Sunrise

The monthly SBH Sunrise Networking Breakfast Forum continues **Thursday, June 27**, in the Pineapple Room, Macy's Ala Moana (3rd Floor), from 7 – 8:30 am.

In addition to networking, introductions and special announcements, the Sunrise features a full buffet breakfast, program and free parking.

Born in Manila, **Vicky Cayetano** is a former Hawaii First Lady and President/CEO of the highly successful United Laundry Services, Inc., and Managing Director of United Laundry Kona, LCC. Mrs. Cayetano will join us and address members and their guests on, "Achieving

Continued on Page 2.

Blue Man Group Coming to HawaiiPage 3
Tax System as a Social Tool..... Page 5

Renewal for Jones Act Abolishment Page 6
Latest Update on the Rail Case..... Page 6

PAYCHECKS HAWAII RATINGS OF THE 2013 LEGISLATURE • Page 4.



Smart Business Views

By Sam Slom, President – Smart Business Hawaii

SBH graded the 2013 Session a “D” and that’s being generous. Now, PAYCHECKS HAWAII,

the private, independent, non-partisan political action affiliate of SBH, released its annual Rating of Hawaii’s 76 Legislators for 2013. See listing on page 4.

E Blast every Wednesday. What? Not receiving your weekly electronic SBH E Biz News? More than 15,000 business owners do receive it. It’s complimentary. Ad space available too. Call Darlyn at 396-1724.

Sears Closure: The closing of the Sears store at Ala Moana Center on June 2 is a big loss here. Sears, an original anchor tenant at Ala Moana in 1959, was many things to many people, including the small businesses who sub-leased space at very favorable rates from the retail giant. I worked there during my UH days. Bloomingdale’s and other new outlets will take the space. Sears continues at Pearlridge, Windward Mall and on the Neighbor Islands.

Abolish the IRS? The IRS, who will take away your rights soon as enforcers of Obamacare, the Affordable Care Act, is in lots of Congressional hot water and some of it involves the Honolulu and Maui Tea Parties. But there’s more. Many anti-big government individuals and businesses have also seen the wrath of the IRS here in Hawaii. Now we learn, the IRS really knows how to party and spend money first class on their meetings and travel, all paid for by you. It’s way past due to abolish the IRS and adopt a Flat Tax or Fair Tax alternative. What do you think?

Obamacare Impact, Part II. SBH and HMAA are planning and update on the full impact of Obamacare (similar to the April 23 SBH forum) in October—after the October 1 start for the Affordable Care Act. Stay tuned for details.

Pau Hana at Hilo Hattie’s: You and your employees will be invited to a spectacular SBH Pau Hana at Hilo Hattie, next month (see full details) on Wednesday, July 17. Save that date!

The **SBH Young Professionals** is now up and running. See story on page 1. Annual dues are only \$75 if you are under 30. Contact me directly (sbh@lava.net), go online (www.smartbusinesshawaii.com), send in the reservation form on page 7, or call Darlyn at 396-1724 for details. Welcome aboard!

UH West Oahu — More Problems: UH West Oahu continues in the news but for the wrong reasons. **Rick Daysog** of Hawaii News

Now broke a story last month that the campus sold a piece of land to Japan’s Tokai University for a reported \$6 million, taking \$5.1 million in cash up front. Long since spent. Now, Tokai finds they don’t have a deed from UH and can’t get a building permit. Good scam: sell land over and over without a conveying deed. UH says they will get a deed. Meanwhile, the new campus, has land conveyed previously from Campbell Estate, which used to be farmed by local farmers and ranchers who paid rent on a monthly basis but apparently no rent or farm use has occurred during the past three years, making UH West the single entity which has abused the most prime agricultural land on Oahu to date.

Blue Man Group to Hawaii: I can’t wait to see the Blue Man Group at the Blaisdell Concert Hall, June 18 – 23. It is the first Island visit by the group that look similar to IRS agents but funnier.

Streamline Tax: While the so-called “Streamlining Sales Tax” bill was defeated for the 9th consecutive year in the Hawaii State Legislature, a similar measure easily passed the US Senate. Hopefully, it will die in the House. Taxpayers do not need an additional tax to pay online.

Vicky Cayetano to Speak at SBH Sunrise: Born in Manila, former Hawaii First Lady and President/CEO of the highly successful; United Laundry Services, Inc., and Managing Director of United Laundry Kona, LCC, **Vicky Cayetano** will join us and address members and their guests Thursday, June 27, on, “Achieving Business Success in Hawaii” Ms. Cayetano is also involved in cultural preservation, promoting better health care and the Honolulu Symphony.

Car Sales Up Here: Tracking national stats, motor vehicle sales are up in Hawaii during the first half of 2013. So are MV registration rates and fees.

Tesoro Layoffs. After all the news coverage and public discussion and Legislative attention, several employees of the Tesoro Refinery who got their pink slips said they were “blind sided.” There had been rumors for weeks that a secret buyer had been found but no negotiations were successful.

Tune in to Panos: SBH Director and UH Engineering Prof, **Dr. Panos Prevedouros**, is a weekly guest on **Rick Hamada’s** Tuesday morning radio show every Tuesday, 7:05 – 8 am. Tune in!

SBH wants you as a Member: Call Darlyn today (808-396-1724) or go online.

SBH Sunrise

Continued from Page 1.

Business Success In Hawaii.” Cayetano is also involved in cultural preservation, promoting better health care and the Honolulu Symphony.

Want to do more business even in these tough economic times? Then come to Sunrise!

May’s speaker was **Clark Hatch**, well known Hawaii entrepreneur and community leader who spoke on, “Doing Business in Asia.”

The SBH forums are open to the public. Advance paid reservations are required.

Each participant is introduced, can plug their business, and bring materials.

The complete cost for SBH members and their guests remains \$25 per person. For non-members and those paying at the door—seats are limited—the cost is \$35.

For details go to www.smartbusinesshawaii.com or call Darlyn at SBH, 396-1724, or send in the reservation form on page 7.

HECO Gets More Dollars and PUC Scoldings

Yet again, your monopoly HECO electric bill increased last month, and again, it has nothing to do with your electric usage.

It is another part of a surcharge increase for all subscribers to help subsidize PV and other solar customers and HECO’s large wind studies. You pay for it all and the record salaries. The Public Utilities Commission, in granting these HECO increases, also chided the power giant for high rates and poor service. But that doesn’t stop the PUC from continuing to enable HECO to squeeze more from ratepayers.

SMALL BUSINESS NEWS

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Small Business Hawaii (SBH), was founded in 1975, by Lex Brodie. SBH is a private, independent, non-profit [501 (c) (6)] statewide association of nearly 2,000 business members.

Wonder Where Food Stamps Come From?

Hawaii leads the Nation in food stamp distribution by population.

Ever wonder where food stamps come from?

They come from taxpayers—certainly not from family farms. Yet the “farm” bill, a recurring subsidy-fest in Congress, is actually 80 percent food stamps and other government nutrition programs.

The food stamps sweeten the farm deal for lawmakers, who admit that the combination works for their political purposes. As Heritage experts **Daren Bakst** and **Diane Katz** explain:

The food stamp portion creates a reason for urban representatives to support farm subsidies, and for farm-state lawmakers to support food stamps.

Talk of de-politicizing agriculture programs and welfare policy is met with stiff resistance. For example, Senator Thad Cochran (R-MS), ranking Republican on the Senate Agriculture Committee, recently told the North American Agricultural Journalists group that food stamps should continue to be included in the farm bill “purely from a political perspective. It helps get the farm bill passed.”

Food stamps are there to help “get the farm bill passed.” And the relation of the rest of the farm bill to farming is also questionable. Bakst and Katz note that “Congress has expanded the farm bill over time into a costly compilation of disparate programs. Along with agriculture and food stamps, the legislation includes dozens of forestry, conservation, energy, and rural development programs.”



Food stamp line from long ago. Photo from the U.S. Dept of Agriculture.

It has become the norm that Congress lumps billions—even trillions—of dollars in taxpayer-funded programs together into huge bills. This allows them to sneak in plenty of special-interest pork.

Each of these programs deserves to be evaluated on its own, and taxpayers deserve transparency from Congress about how it plans to spend our money.

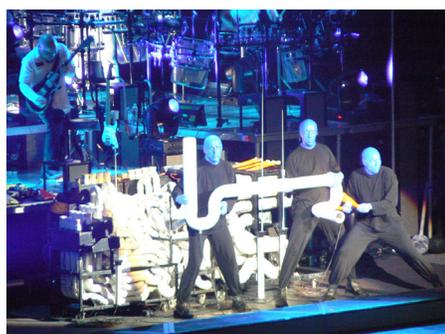
For example, food stamps are a massive program that needs a careful look. Food stamp spending has doubled under the Obama Administration, and participation is at historic highs. Recruiters holding bingo games and other

“parties” to try to get more people on the food stamp rolls.

Farm commodity programs are also a major concern and in dire need of reform. Congress may eliminate the egregious direct payment program, which pays farmers for doing nothing. However, instead of stopping there, both the House and Senate farm bills would replace direct payments with programs that could wind up being even costlier.

Food stamps and farming ultimately have to do with food, but that’s about all they have in common. Making the farm bill 80 percent food stamps just doesn’t make sense.

The original version of this article appears at *The Foundry* from **Heritage.org**.



Blue Man Group Coming to Hawaii

Networks Presentations, LLC is pleased to announce that **Blue Man Group** will make its Hawaii debut on Tuesday, June 18 and play one week of performances at the Blaisdell Concert Hall through June 23. Blue Man Group is presented in Honolulu by Broadway In Hawaii.

The theatrical tour features brand new content highlighted by classic Blue Man favorites.

The new sound, set, and video design centering around a proscenium-sized LED curtain and high-resolution screen create an entirely new, high-impact visual experience for Broadway houses across the nation.

The critically acclaimed Blue Man Group creates experiences that defy categorization. Blue Man Group is best known for multi-media performances that feature three bald and blue characters who take the audience on a journey that is funny, intelligent and visually stunning. A live band, whose haunting tribal rhythms help drive the show to its climax, accompanies the Blue Men.

Tickets are on sale now at the Blaisdell Concert Hall, online at **www.ticketmaster.com**, at all Ticketmaster outlets, including all Walmart Stores and by calling (800) 745-3000. For more information visit **www.broadwayinhawaii.com**.

Ratings of the 2013 Hawaii State Legislature

provided by **PAYCHECKS HAWAII**, an independent, non-partisan political action affiliate of Smart Business Hawaii

PAYCHECKS HAWAII RATINGS: STATE SENATE

| STATE SENATOR | District | 2009 | 2010 | 2011 | 2012 | 2013 |
|-----------------------------|----------|------|------|------|------|------|
| Baker, Rosalyn (D) | 6 | 4 | 3 | 4 | 4 | 4 |
| Chun Oakland, Suzanne (D) | 13 | 3 | 4 | 4 | 3 | 4 |
| Dela Cruz, Donovan (D) | 22 | - | - | 3 | 4 | 3 |
| English, J. Kalani (D) | 7 | 4 | 4 | 4 | 4 | 4 |
| Espero, Will C. (D) | 19 | 3 | 4 | 4 | 4 | 4 |
| Gabbard, Mike (D) | 20 | 2 | 3 | 4 | 5 | 4 |
| Galuteria, Brickwood (D) | 12 | 4 | 4 | 4 | 4 | 4 |
| Green, Josh M.D. (D) | 3 | 2 | 2 | 2 | 2 | 4 |
| Hee, Clayton (D) | 23 | 4 | 4 | 4 | 3 | 5 |
| Ige, David (D) | 16 | 4 | 3 | 3 | 3 | 3 |
| Ihara, Jr. Les (D) | 10 | 3 | 4 | 3 | 2 | 2 |
| Kahele, Gilbert (D) | 1 | - | - | 4 | 4 | 3 |
| Keith-Agaran, Gilbert (D) * | 5 | 4 | 4 | 4 | 4 | 3 |
| Kidani, Michelle (D) | 18 | 3 | 4 | 4 | 3 | 3 |
| Kim, Donna Mercado (D) | 14 | 3 | 3 | 3 | 3 | 2 |
| Kouchi, Ronald D. (D) | 8 | - | - | 3 | 3 | 3 |
| Nishihara, Clarence K. (D) | 17 | 2 | 3 | 4 | 4 | 3 |
| Ruderman, Russell E. (D) | 2 | - | - | - | - | 3 |
| Shimabukuro, Maile (D) | 21 | 4 | 4 | 4 | 4 | 4 |
| Slom, Sam (R) | 9 | 1 | 1 | 1 | 1 | 1 |
| Solomon, Malama (D) | 4 | - | - | 2 | 3 | 3 |
| Taniguchi, Brian (D) | 11 | 4 | 4 | 3 | 4 | 3 |
| Thielen, Laura H. (D) | 25 | - | - | - | - | 3 |
| Tokuda, Jill N. (D) | 24 | 3 | 4 | 3 | 3 | 3 |
| Wakai, Glenn (D) | 15 | - | - | 2 | 2 | 2 |

* appointed 2013 to fill vacant seat after Sen. Tsutsui was appointed Lt. Governor. 2009-2012 ratings reflect time Sen. Keith-Agaran was in the House.

Each year since 1986, **PAYCHECKS HAWAII**, the private, independent, non-partisan political action affiliate of SmartBusiness Hawaii, rates each of the 76 state legislators on support for small business in collaboration with other small business associations, individuals, and those actively participating at the Capitol during the legislative session.

The subjective business ratings are based upon: (1) key business votes involving tax and fee increases; (2) efforts to increase or decrease government size and spending; (3) employer mandates (e.g., workers' compensation, UI, prepaid health, etc.), labor bills affecting business (minimum wage, "union card," etc.) and regulations; (4) conduct in hearings, accessibility, and response of the legislator, and (5) active sponsorship, introduction and advocacy of better business climate positions.

Each lawmaker is rated, regardless of political party, from #1, "most supportive and outspoken advocate for a better business climate," to #5, "least supportive of small business and an improved Hawaii business climate." Ratings may be helpful at election time.

PAYCHECKS HAWAII RATINGS: STATE HOUSE

| STATE REPRESENTATIVE | District | 2009 | 2010 | 2011 | 2012 | 2013 |
|--------------------------|----------|------|------|------|------|------|
| Acquino, Henry J.C. (D) | 38 | 3 | 4 | 4 | 4 | 3 |
| Awana, Karen L. (D) | 43 | 4 | 4 | 3 | 3 | 3 |
| Belatti, Della Au (D) | 24 | 3 | 4 | 2 | 2 | 3 |
| Brower, Tom (D) | 22 | 3 | 2 | 2 | 3 | 2 |
| Cabanilla, Rida T.R. (D) | 41 | 3 | 4 | 4 | 4 | 3 |
| Cachola, Romy M. (D) | 30 | - | - | - | - | 4 |
| Carroll, Mele (D) | 13 | 4 | 4 | 4 | 4 | 4 |
| Cheape, Lauren (R) | 45 | - | - | - | - | 3 |
| Choy, Isaac W. (D) | 23 | 3 | 4 | 4 | 4 | 3 |
| Coffman, Denny (D) | 5 | 3 | 4 | 4 | 4 | 4 |
| Cullen, Ty (D) | 39 | - | - | 4 | 4 | 4 |
| Evans, Cindy (D) | 7 | 3 | 4 | 4 | 4 | 4 |
| Fale, Richard (R) | 47 | - | - | - | - | 2 |
| Fukumoto, Beth (R) | 36 | - | - | - | - | 2 |
| Hanohano, Faye P. (D) | 4 | 4 | 4 | 4 | 4 | 4 |
| Har, Sharon E. (D) | 42 | 4 | 4 | 4 | 4 | 3 |
| Hashem, Mark J. (D) | 18 | - | - | 3 | 4 | 3 |
| Ichiyama, Linda (D) | 32 | - | - | 3 | 4 | 4 |
| Ing, Kaniela (D) | 11 | - | - | - | - | 4 |
| Ito, Ken (D) | 49 | 3 | 3 | 3 | 3 | 3 |
| Johanson, Aaron Ling (R) | 31 | - | - | 1 | 2 | 2 |
| Jordan, Jo (D) | 44 | - | - | 4 | 4 | 4 |
| Kawakami, Derek S.K. (D) | 14 | - | - | 3 | 4 | 4 |
| Kobayashi, Bertrand (D) | 19 | - | - | - | - | 4 |
| Lee, Chris (D) | 51 | 3 | 4 | 4 | 4 | 4 |
| Lowen, Nicole (D) | 6 | - | - | - | - | 4 |
| Luke, Sylvia J. (D) | 25 | 3 | 4 | 3 | 3 | 3 |
| McDermott, Bob (R) | 40 | - | - | - | - | 1 |
| McKelvey, Agnus L.K. (D) | 10 | 2 | 3 | 3 | 3 | 3 |
| Mizuno, John (D) | 28 | 3 | 4 | 4 | 4 | 4 |
| Morikawa, Dee (D) | 16 | - | - | 3 | 4 | 4 |
| Nakashima, Mark M. (D) | 1 | 3 | 4 | 4 | 4 | 4 |
| Nishimoto, Scott Y. (D) | 21 | 4 | 4 | 4 | 4 | 4 |
| Ohno, Takashi (D) | 27 | - | - | - | - | 3 |
| Onishi, Richard H.K. (D) | 3 | - | - | - | - | 3 |
| Oshiro, Marcus (D) | 46 | 5 | 5 | 5 | 4 | 4 |
| Rhoads, Karl (D) | 29 | 3 | 3 | 3 | 3 | 5 |
| Saiki, Scott (D) | 26 | 4 | 4 | 4 | 4 | 4 |
| Say, Calvin K.Y. (D) | 20 | 4 | 5 | 4 | 5 | 4 |
| Souki, Joseph M. (D) | 8 | 4 | 4 | 4 | 5 | 5 |
| Takai, K. Mark (D) | 33 | - | 4 | 3 | 3 | 3 |
| Takayama, Gregg (D) | 34 | - | - | - | - | 3 |
| Takumi, Roy M. (D) | 35 | 5 | 5 | 5 | 4 | 4 |
| Thielen, Cynthia (R) | 50 | 2 | 2 | 2 | 2 | 3 |
| Tokioka, James K. (D) | 15 | 4 | 4 | 4 | 4 | 4 |
| Tsuji, Cliff (D) | 2 | 4 | 4 | 4 | 4 | 4 |
| Ward, Gene (R) | 17 | 1 | 2 | 2 | 1 | 2 |
| Woodson, Justin H. (D) | 9 | - | - | - | - | 3 |
| Wooley, Jessica (D) | 48 | 3 | 4 | 4 | 4 | 5 |
| Yamane, Ryan I. (D) | 37 | 3 | 4 | 4 | 4 | 3 |
| Yamashita, Kyle T. (D) | 12 | 3 | 4 | 4 | 4 | 3 |

Making Hawaii's Tax System A Social Tool Creates Inefficiencies

By **Lowell Kalapa**, President, Tax Foundation of Hawaii



With the recent experience of tax incentives in the form of tax credits, lawmakers are beginning to shy away from adopting tax credits for this or that type of activity. However, lawmakers seem to continue to believe that the tax code can help shape social policy.

One proposal that has been around for a long time and continues to be introduced, is the state adoption of an "earned income tax credit" (EITC) like that afforded under the federal income tax code. Advocates of the EITC argue that the credit helps the poor to "lift themselves" out of poverty by encouraging those who have dependents to go to work. The federal EITC provides an incentive to low-income households to remain in the workforce. It is targeted at households with children, but the credit is also available at a lower amount to low-income households without children. The credit is based on a number of tests for earned income, investment income, number of qualifying children, dependency, etc. Given the complexity of the credit, the IRS will optionally calculate the amount of the credit for taxpayers. The IRS reports an error rate of greater than 25% for this credit.

Many of the proposals that have been introduced in recent years would adopt an earned income credit by merely taking a percentage of the amount that the taxpayer would be eligible for under the federal table or determination. However, local lawmakers often do not realize that the federal EITC was originally established to offset the burden of Social Security payroll taxes that might have otherwise been paid to workers but were instead paid to the federal government by the employer. Enacted in 1975 at the federal level primarily as a means of tax relief, the credit was expanded three times during the 1980's and 1990's to boost income from work and lessen poverty among families with children. In other words, it became a tool by which the federal government undertook social policy beginning with the first expansion of the credit in 1986.

It should be noted that the date of the first expansion was also the year that the federal Code was dramatically restructured, eliminating a number of tax benefits such as the deduction of consumer credit interest, deduction of state sales taxes, and institution of a minimum tax for those taxpayers receiving generally exempt income. It was also

the year that rates were dramatically reduced, and together with the standard deduction and personal exemption, rates were indexed.

Thus, what started out as a mechanism to "refund" payroll or Social Security taxes that might otherwise have been paid to low and moderate-income workers has turned into a subsidy for these families. While federal policymakers have the luxury of expending millions of dollars to accomplish a social goal through the tax system, state lawmakers do not have the same level of resources.

What should also send up "red flags" for lawmakers is that most of these proposals tie the amount of the proposed state EITC to a percentage of the amount of the federal credit that could be claimed by an eligible individual. Although it would obviate the need to calculate the number for the state credit, it ties the revenue impact of the state credit to the amount provided by the federal Code. The problem then is if Congress decides to change or sweeten the credit, the cost to the state treasury would then be out of the control of local policymakers. If the intent of state lawmakers is to alleviate the burden on the low and moderate-income workers, their efforts should focus on the state income tax burden as it affects these families. Hawaii has one of the lowest thresholds of the some 43 states that levy a state income tax.

Another attempt to use the tax laws to socially engineer human behavior surfaced in a resolution adopted by the House this past session that calls for an evaluation of imposing a "sales tax" on "discretionary" foods while lifting the general excise tax imposed on "essential" foods. In the eyes of the introducer of the resolution, not only would this shift encourage the purchase of "healthy essential" foods, but it would also help to raise additional revenue by taxing the purchase of "discretionary" foods such as processed foods, candies, soda and other nonessential food.

While it may sound like a good idea, it basically reflects the ignorance that in many cases it is the poor who are only capable of purchasing the cheaper processed food alternative. Then again, when one is a lawmaker taking public tax dollars, who cares about what the poor are able to afford. So much for social engineering.

Lowell L. Kalapa is the president of the Tax Foundation of Hawaii. You can find the Tax Foundation of Hawaii online at tfhawaii.org.

Kaiser Appoints Dr. Latare

Kaiser Permanente Hawaii announced last month that **Peggy Latare**, MD, has received her Achievement of Diplomate from the American Board of Obesity Medicine (ABOM), becoming the first physician in Hawaii, and among the first in the nation, to become certified in treating people for obesity.

Dr. Latare specializes in family medicine and has been with Kaiser Permanente since 1989. She is the physician co-lead for the organization's Bariatric Surgery Program and assistant associate medical director for Patient-Clinician Communication. She is double-board certified in family medicine and obesity medicine, and is a member of the American Academy of Family Physicians and the Hawaii Academy of Family Physicians. She received her bachelor's degree in biology from the University of Missouri-Columbia and her doctorate from the university's School of Medicine.

More information about Kaiser Permanente can be found online at www.kp.org.

SBH Membership Can Help You!

One of the benefits of membership in SBH is our business referral service. Another is member discounts. Also, you can contact SBH for answers to employment and other legal questions. Finally, SBH is *your* business advocate at the State Legislature, City Council and Public Agency hearings.

Please join today. Call 808 **396-1724** for details or send in the membership form on page 7.

Hawaii Residents Renew Fight for Free Market in Shipping

By **Malia Zimmerman**
HawaiiReporter.com

High-profile Hawaii economists, professors and businessmen last week called on Congress to repeal the Jones Act, the 1920s federal law requiring that cargo shipped within the U.S. be moved only by American-made, American-manned and American-owned vessels.

They said the Jones Act — more formally called the Merchant Marine Act of 1920 — substantially increases the cost of goods imported into Hawaii, other island territories and Alaska by limiting shipping competition. The Jones Act has supporters, of course, including union leaders, businesses that benefit from shipping restrictions, the U.S. Navy and powerful political figures in both major political parties. They say the law is important to national security, a strong economy and job creation.

Supporters and opponents are not divided neatly along party lines. Democrats traditionally back the law in step with union workers in the shipping industry. But even prominent conservatives — President Ronald Reagan was a fan — see the Jones Act as essential to national security by supporting American shippers in peacetime so that they're ready in time of war.

"The Jones Act provides a layer of protection to this nation that many do not recognize and also provides capability to assist in times of national emergency," **Joseph**



A Matson container ship arrives in Honolulu

Pyne of the American Maritime Partnership told members of the House Subcommittee on Coast Guard and Maritime Transportation last week. "Please help us keep the confidence we need to continue investing in America by telling the world America's security is not for sale and the Jones Act will remain the foundation of our U.S. fleet."

Hawaii's most powerful politicians typically back the Jones Act. Those who don't can expect industry-financed campaign opponents who do.

In 2010, when then City Council Member **Charles Djou**, Senate President **Colleen Hanabusa** and former Congressman **Ed Case** ran against each other for a vacant congressional seat, both Djou and Case came out against the Jones Act, while Hanabusa was in support.

Matson, the shipping line that dominates

the movement of goods to and from Hawaii, backed Hanabusa. While Republican Charles Djou beat two Democrats who ran in the race, Hanabusa and Case, that victory was fleeting. Hanabusa returned during the next election 10 months later to beat Djou in the General Election, in part with the help of Jones Act companies and unions.

"This has nothing to do with national defense as it might have back in the 1930s," said Honolulu Attorney **John Carroll**, who filed a 2012 federal class-action suit

alleging the act violates the Commerce Clause of the Constitution and forces monopoly prices on Hawaii consumers. "It's about paying off unions and protecting vested interests of the shipping monopolies that have a stranglehold on Hawaii."

Carroll's lawsuit was dismissed on standing, but in a sign of growing anti-Jones Act enthusiasm, he filed an appeal Thursday, May 23.

Ken Schoolland, a Hawaii Pacific University economics professor, said if the Jones Act is really for national security, then the cost should be paid by the nation as a whole. He said the act unfairly burdens Hawaii residents and Alaskans with high food and other consumer costs, and cripples every business in the islands that could benefit from lower shipping costs with the world.

"When advocating restrictions on shipping, the protected industry typically showcases their jobs shielded from competition without comparing the greater number of jobs lost in other sectors of the economy that are negatively impacted by such preferential laws," Schoolland said.

The economist **Henry George** "had it right," Schoolland said: "protectionism teaches us to do to ourselves in time of peace what enemies try to do to us in time of war." Noting that May was the 25th anniversary of the attack on the USS Stark that killed 37 American sailors, Schoolland said the Stark was in the Persian Gulf for the purpose of "guaranteeing freedom of the seas" to international shipping.

"Too often special-interest groups, in their haste to eliminate competitors, fail to remember that this nation's interests throughout the Cold War and beyond have been in support of free markets around the world," Schoolland said. "If only the U.S. Congress would practice in our own backyard what our leaders have been preaching to the world over the past century."

Legal Challenge to Honolulu Rail

By **Cliff Slater**, Honolulu Traffic.com

HonoluluTraffic.com and seven other plaintiffs have filed an appeal with the Ninth Circuit Court of Appeals challenging the city's \$5.2 billion rail project.

Here's what you need to know about our appeal:

First, in 2003, the Federal Transit Administration approved a Final EIS for the BRT plan prepared by Parsons Brinckerhoff, the City and the FTA, which "reaffirms selecting the Bus Rapid Transit (BRT) Alternative as the Locally Preferred Alternative."

They also wrote, "Public input received in hundreds of Vision Team and Oahu Trans 2K meetings and workshops ... [showed that] the predominant sentiment among thousands of participants was that a grade-separated [elevated rail] transit system would be unacceptably: (1) intrusive on the visual environment; (2) divisive of communities; and (3) too expensive." Second, federal environmental law requires that Honolulu had to, "Rigorously explore all reasonable alternatives," to determine which would be the preferable alternative.

Third, when **Mayor Hannemann** took office in January 2005, he immediately wrote of his, "political decision ... not to proceed further with any phase of the BRT project." Note that this was a "political" decision, not one made on the merits as part of a formal environmental process.

Fourth, during the Alternatives Analysis phase of what became the rail project, the

Continued on Page 8.



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Rail Update

Continued from Page 6.



City and FTA failed to consider BRT a “reasonable alternative” despite only two years previously having declared it the “Locally Preferred Alternative.” Further testifying to its reasonableness, the 2003 BRT EIS had forecast more ridership for BRT than the City and FTA currently forecasts for rail — and at a tiny fraction of the cost of rail.

Fifth, **Judge A. Wallace Tashima**, the Federal Court District Court Judge presiding over this matter declared at the outset that he was unfamiliar with the most relevant statute concerning this issue, Section 4(f).

In short, the City and FTA failed to “rigorously explore all reasonable alternatives,” of which some variant of the 2003 BRT plan should have been explored.

The BRT issue is just one of the many contested ones detailed in our appeal, but for this issue, we clearly have the law on our side. More information on rail at:

<http://www.honolulutraffic.com>

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EEOC Fines Panda Express for Sexual Harassment

Press Release from the EEOC

Chinese quick service restaurant giant Panda Express will pay \$150,000 to settle an EEOC lawsuit on behalf of at least three female teenagers who were allegedly sexually harassed between 2007 and 2009 while working in a restaurant in Kauai, Hawaii, the federal agency announced today.

According to the EEOC, one male kitchen supervisor at the Panda Express in Kapaa, Kauai, sexually harassed some females on staff over four years ago. The supervisor subjected the workers, some of whom were between the ages of 17 and 19, to sexual comments, language and advances, the EEOC said. Upon reporting the harassment to the general manager, the EEOC said, Panda Express management failed to take enough action to stop or correct the situation.

Sexual harassment violates Title VII of the Civil Rights Act of 1964. The EEOC filed its lawsuit in September 2012 in U.S. District Court for the District of Hawaii (EEOC v. Panda Express, Inc. and Panda Restaurant Groups, Inc., Case No. 1:12-cv-00530-SOM-RLP) after first attempting to reach a pre-litigation settlement through its conciliation process. As part of the settlement announced today, the parties entered into a two-year consent decree requiring Panda Express to designate an in-house equal employment opportunity (EEO) coordinator; revise and distribute its anti-harassment policy and procedures; and provide annual sexual harassment training to all employees in Kapaa and to all general managers in the state of Hawaii. EEOC will monitor compliance with the agreement, and Panda Express agreed to reinforce its protocols relating to complaints of sexual harassment in its Hawaii region.

“We commend Panda Express for working with the EEOC to correct serious lapses in dealing with sexual harassment in the workplace,” said Anna Y. Park, regional attorney for the EEOC’s Los Angeles District Office, which includes Hawaii in its jurisdiction. “We trust that Panda Express’s company values are consistent with the goals of the EEOC’s mission, and we commend them for agreeing to broader injunctive remedies to ensure that the workers in Hawaii are protected.”

Timothy Riera, local director for the EEOC’s Honolulu Local Office, added, “We encourage employers to conduct meaningful training of its employees on what the policies and procedures are with respect to sexual harassment. Those who exercise their right to report sexual harassment and discrimination at work are also protected from illegal retaliation. The EEOC is certainly here to help, especially when employers fail to meet their legal obligation to protect our youngest workers.”

According to the company website, www.pandaexpress.com, Rosemead, Calif.-based Panda Restaurant Group, Inc. manages and owns over 1,600 restaurants in 42 states. The EEOC recently updated its Youth@Work website (at <http://www.eeoc.gov/youth/>), which presents information for teens and other young workers about employment discrimination.

The website also contains curriculum guides for students and teachers and videos to help young workers learn about their rights and responsibilities in the work force.

The EEOC enforces federal laws prohibiting employment discrimination. Further information about the EEOC is available on its web site at www.eeoc.gov.

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