

SBH MEMBER CALENDAR

PHONE 396-1724 • FAX: 396-1726

Tuesday, May 13

38th Annual SBH Business & Investment Conference

Ala Moana Hotel Hibiscus Room

8:00 am to 2:00 pm

Keynote Address by

Patrick Snow

Author / Entrepreneur

Motivational Speaker



The sunset, beach & surf from Waikiki

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Minimum Wage, No Business Relief as 2014 Hawaii Legislature Calls it a Wrap



The Legislature wrapped with a series of conference committees and final voting sessions.

The 27th State Legislature convened January 15 and adjourned May 1. In its wake was a higher minimum wage, more business mandates, and fees, and no improvement in Hawaii's lackluster business climate.

Another legislative failure for business and jobs here.

The battle was lost in raising the state's \$7.25 per hour minimum wage to \$10.10 over the next four years starting in January, 2015. It was politics at its worst in an election year as politicians in both parties pandered to the special interests aligned for the increase. SB 2609, led by Sen. Clayton Hee, emerged from Conference Committees as the House caved

in to the Senate demands. A limited 75¢ tip credit was added by the House.

Small business will be impacted the most. Businesses were near unanimous in their opposition to the wage increase but the lawmakers, except for Rep. Bob McDermott and Sen. Sam Slom all voted for the increase (some with reservations).

Those not in business do not understand that when the wage goes up, all other matching taxes, mandates (workers' compensation, unemployment compensation taxes, TDI, etc.) go up as well since they are based in part on the wage base.

Continued on page 2.

SBH Conference Set For May 13

Please reserve today (reservation form and agenda on page 4) for Smart Business Hawaii's 38th Annual Business & Investment Conference, Tuesday, May 13, from 8 am to 2 pm, in the Hibiscus Ballroom in the Ala Moana Hotel. You need to be there!

You can call for reservations and additional information @ 396-1724.



Patrick Snow

There will be an exciting and informative business program. Fabulous speakers, including Mike McCartney (Hawaii Tourism Authority), Tom Yamachika (Tax Foundation of Hawaii), Peter Kay (Cybercom), Mark Storfer (Hilo Hattie), Naomi Hazelton-Giambrone (Element Media), Jonathan Young, (Associated Builders and Contractors) Dale Evans (Charley's Taxi), Bob Sigall ("The Companies We Keep") and others. The keynote speaker for the conference is entrepreneur and author Patrick Snow.

Primary sponsors include HMAA, McDonalds of Hawaii, Aston Hotels, Maui Divers and Cliff Slater of HonoluluTraffic.com.

There will be local issues and tips for success. Don't miss it! Bring an employee and an associate. See you at Ala Moana on the 13th!

Roy's Forced to Pay Back TipsPage 3
Stop Waste & Misuse of Taxpayer \$\$\$..Page 5

Temporary Tax Not So Temporary Page 7
Feds Indict Waste Management Page 8

38th Annual SBH Conference Agenda & Reservation Form • Page 4.



Smart Business Views

By Sam Slom, President – Smart Business Hawaii

Legislature Pau. The 2014 Legislative Session ended May 1. No good news for business in Hawaii. But, you now only

have to hold one hand on your wallet or purse until next January. See wrap on the Session that began on page 1.

CometotheSBHBusinessConference

May 13. Please plan to attend the SBH 38th Annual Business & Investment Conference, Tuesday, May 13, 8 am – 2 pm, in the Ala Moana Hotel (Hibiscus Ballroom). A great line up of exciting and informative speakers and issue topics (see agenda, on Page 4), networking, business exhibits and more. Luncheon keynoter is renowned author, entrepreneur and motivational speaker, **Patrick Snow**. Special mahalo to our sponsors, **HMAA, McDonald's, Altria, RAI, Aston Hotels, HawaiiReporter, ProService, Winner's Camp, Maui Divers** and **Cliff Slater**. Call Irma for information and reservations (396-1724).

O'Reilly Coming! The long awaited Hawaii appearance by FOX TV cable leader, **Bill O'Reilly** and political commentator **Dennis Miller**, will be at the Blaisdell Concert Hall, Saturday, May 10 at 3 pm. A sellout crowd is expected. O'Reilly reportedly has been vacationing and getting some zzz's in Kona.

Heritage Here. The Heritage Foundation, Washington's leading conservative think tank and advocacy organization, will be holding a panel and dinner at the Halekulani Hotel, Thursday, May 8. Heritage President, and former US Senator, **Jim DeMint**, will speak.

JA Wants to Honor You. Junior Achievement of Hawaii would like to honor you – our dedicated volunteers, amazing teachers, and generous donors! Please join us: May 29, 5:30 PM- 8:30 PM at Bishop Museum, Bowman Hālau Wa'a Junior Achievement of Hawaii Thank You for your unending support and we are looking forward to an evening of fun!

No Free Speech for You. University of Hawaii Hilo hassled some students who were handing out free copies of the U.S. Constitution on Constitution Day recently. UH said the students should have stayed in the University's "free speech zone" and one Administrator said, "this isn't the 1960s; you can't protest like that." Isn't all of Hawaii and the U.S. a free speech zone?

Gas Prices Climb. Our highest in

the nation retail gasoline prices continue to escalate. Hawaii regular gas prices were headed to \$4.50 a gallon at the beginning of May. Lex Brodie's no longer sells gas and competition has decreased here. World turmoil doesn't help.

Climate Control. The White House announced new warnings about climate control and global warming and new mandates. Do you really believe that human actions, especially in the United States, can directly affect world wide temperatures, storms, sea rising, sweltering heat, freezing cold-and child obesity? (**Al Gore** and **Brian Schatz** apparently do). Many scientists will tell you "no" and that the seemingly strange weather is actually part of a longer, predictable cycle. But they are demonized in the media and elsewhere. Political decisions made now will adversely affect your economic future and will destroy more jobs in the private sector. There are definitely two sides to this issue, but you usually only get one. It is all about control, not change, or choice.

Group 70 Names Kaneshiro. According to *Pacific Business News* **Charles Kaneshiro** has been named president and chief operating officer of Honolulu-based Group 70 International Inc., one of the largest architecture firms in Hawaii. Kaneshiro, who has been with the firm for nearly 15 years, will serve a five-year term as head of the company, and succeeds Linda Miki, who joins other past presidents as a vice chair on the board of directors.

Want More Business? Join SBH! Is your business a member of SBH? No? Lots of benefits. Strong networking organization. Call 396-1724 or go online to smartbusinesshawaii.com.

Hawaii Reporter.com, Hawaii's first electronic daily newspaper launched in 2002, continues to report all the breaking news, and unlike other publications in town, is still free. Award winning Hawaii Reporter and **Malia Zimmerman** report daily (M-F) on the **Rick Hamada Show** heard on KHVH radio on 830 AM at 7:05 am.

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

Read Your eBlast every Wednesday. What? Not receiving your weekly electronic SBHE Biz News? It's complimentary. Ad space available too. Call Irma at 396-1724.

Legislature Adjourns

Continued from page 1.

Jobs will not be available to those who need them most; younger, inexperienced workers seeking an entry into a job. Less than 3% of Hawaii's workforce are paid a forced minimum wage now. The market always dictates.

\$24 Billion Budget (HB 1700). The heavily Democrat-controlled Legislature passed what they referred to as an "austere," two-year, \$23.7 billion supplemental budget. The budget is not balanced after 2017 and does not include more millions in separate bills, such as collective bargaining, direct appropriations, the Judiciary and Capital Improvements Budgets, "Emergency" allocations and Turtle Bay Preservation.

Turtle Bay (HB 2434). The most curious bill that passed involves the preservation of 660 acres of land at Turtle Bay (specifically Kawella Bay) on O'ahu's North Shore. The taxpayers are paying \$48 million for an easement to keep Turtle Bay Hotel owners from developing the land. Everyone is for preservation for that area but the manner in which the Legislature went about the financing scheme in the dying moments of the Session would make any CPA scratch his head. Ask your lawmaker to explain the financing scheme. It may be illegal but it was done for political purposes. The North Shore is "saved" once again and the taxpayers continue to bankroll land preservation. But what about maintenance of the land? There is no appropriation for that.

HCDA, OHA & Kaka'ako Makai. There were new restrictions put on the Hawaii Community Development Authority (HCDA) in HB 1866, but an attempt to override previous

Continued on page 3.

SMALL BUSINESS NEWS

Volume 39, No. 5 • May 2014

SMART BUSINESS HAWAII (SBH)
6600 Kalaniana'ole Hwy., #212 • Honolulu, HI 96825
Ph. (808) 396-1724 • FAX (808) 396-1726
email: sbh@lava.net

Web: <http://www.smartbusinesshawaii.com>

Published monthly by Smart Business Hawaii

EDITOR & PUBLISHER: Samuel M. Slom
MANAGING EDITOR: Malia Zimmerman

DIRECTORS: Reg Baker, Debi Halcro, Naomi Hazelton-Giambrone, Barbara Marumoto, Dr. Panos Prevedouros, Tyler Roukema, Jack Schneider, Bob Sigall, Sam Slom, Fred Smoot, Mark Storf, and Geal Talbert.

PHOTOS & PRODUCTION: Melvin Ah Ching

POSTMASTER: Send address changes to
Small Business Hawaii,
6600 Kalaniana'ole Hwy., Suite 212
Honolulu, Hawaii 96825.

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No Business Relief

Continued from page 2.

(2006, 2010) legislative actions to ban high rise residential development on waterfront lands at Kaka'ako died in the last few minutes of the Session after furious back room dealings and a dozen conference committees.

High rise residential development by the Office of Hawaiian Affairs, a state agency, on Kaka'ako makai waterfront lands was fierce and contentious. It stems from the State giving the lands valued at \$200 million to OHA several years ago in exchange for moneys owed OHA. But there were restrictions on the deal then. OHA will be back next year.

Hawaii Health Connector. Despite a failed business plan, no sustainability, new taxes on Hawaii premium payers and \$204 million from the Feds, the State wants to bail out the failed Hawaii Health Exchange Connector. It is all about Obamacare and the ACA. SB 2470 sets up another committee and pledges \$1.5 million of state money for the Connector which continues pouring money into a black hole.

Miscellaneous Bills. The anti-petroleum Barrel Tax is back, we will have mandatory Kindergarten in July and plenty of money to fight invasive species in coffee, mac nuts and the Little Red Fire Ant. Counties will get more of the Hotel Room Tax (TAT). There will be more demands for Conveyance Tax revenue. Several Special Funds will be eliminated. Alas, there will be no legalized marijuana, suicide, a state instrument (the imported Portuguese ukulele was stopped by Native Hawaiian instruments) state microbe, citizen empowerment through Initiative, Referendum or Recall, or many more bucks for phony "Early Education" (read. "early subsidies for private day care providers"). A good industrial hemp bill did pass (see adjacent story) and local micro breweries will get a liquor tax reduction. Attempts to regulate and heavily tax E cigarettes as tobacco failed—this year.

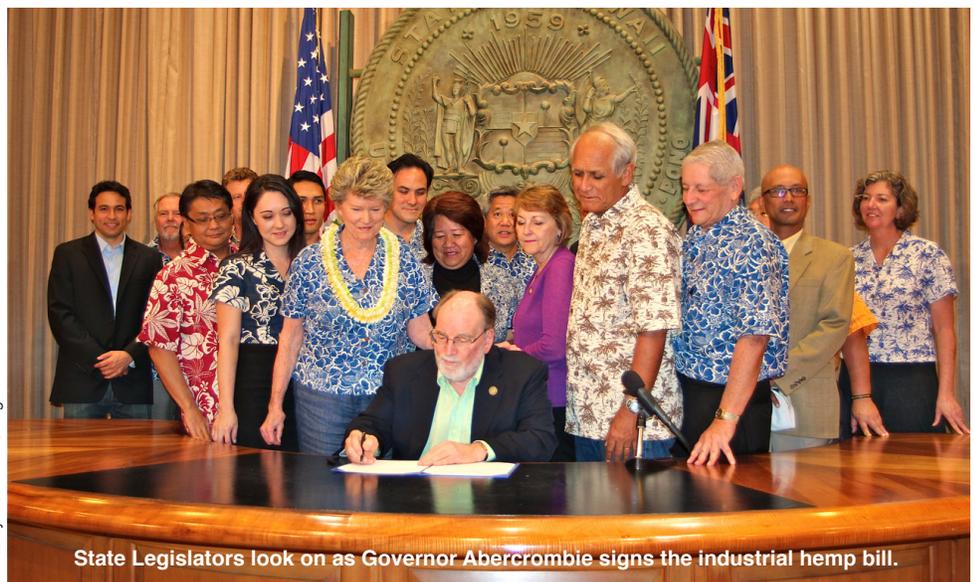
It has been a generally lackluster session with little open debate. Much took place behind closed doors. But the public is getting smarter.

The Legislature did allocate \$80,000 for a new "fall prevention coordinator" position in the state Department of Health.

There will be hearings, briefings and other things to watch during the interim until next January and the 28th State Legislature. SBH will keep you informed.

For information on specific bills, a list of Acts and upcoming legislative briefings go online to:

<http://www.capitol.hawaii.gov>



Governor Signs Bill Authorizing Industrial Hemp Research Program

For two decades, State Rep. **Cynthia Thielen** (R-Kailua) strongly advocated for Hawaii to begin growing and become a world leader, in industrial hemp. She was tireless. In April, she succeeded after both the House and Senate passed a Senate bill to make this economic activity a reality.

In the final days of the 2014 Legislative Session, Gov. **Neil Abercrombie** signed **Senate Bill 2175 (Act 56)**, a measure that allows the University of Hawaii (UH) College of Tropical Agriculture and Human Resources (CTAHR) to establish a two-year industrial hemp remediation and biofuel crop research program.

Act 56 authorizes the growth and cultivation of industrial hemp in accordance with requirements established by the federal Agriculture Act of 2014, which allows higher education institutions and state departments of agriculture to conduct industrial hemp research.

"Hawaii's environment and economy will benefit from this research," Gov. Neil Abercrombie said. "Industrial hemp can be used to decontaminate soil and increase the state's production of biodiesel, therefore reducing our dependency on imported fuel."

Act 56, which takes effect July 1, requires the state Department of Agriculture to certify the industrial hemp seed stock and verify that plants grown are not marijuana. The program will be limited to one test site. It also states that the dean of the UH CTAHR must submit a final report, including any proposed legislation, to the Legislature prior to start of the 2016 legislative session.

Roy's Restaurants to Pay \$225,000 to Tipped Employees

Report from the U.S. Department of Labor

Roy's Holdings Inc. has agreed to return \$136,761 in tips and pay another \$88,424 in back wages to 326 tipped servers employed at several of its Hawaii-based Roy's restaurants for violating the wage provisions of the Fair Labor Standards Act.

Investigators with the Wage and Hour Division found that the employer reduced the cash wage of the tipped employees below the minimum wage of \$7.25 per hour without allowing them to fully retain their tips during the two-year investigation period beginning in August 2011.

The employer unlawfully required the servers to pay a portion of their shift tips to the non-tipped hourly kitchen staff who were already paid at least the full minimum wage. The employer also was assessed a penalty of \$1,550 for permitting a minor to load a trash compactor, which is considered a hazardous occupation for workers under the age of 18.

"Employers cannot take a credit against their minimum wage obligation to tipped staff if they require a portion of those tips to be shared with traditionally non-tipped staff such as kitchen employees," said Terence Trotter, the division's district director in Hawaii.

TUESDAY, MAY 13, 2014 • THE ALA MOANA HOTEL • HIBISCUS BALLROOM

Principal Sponsors:

HMAA McDonald’s Restaurants of Hawaii, Altria, RAI,

Sponsors: Aston Hotels, Aloha Lei Company, ProService, Hawaii Reporter, Valenti Print Group. Winners’ Camp Hawaii.

7:00 – 8:30 am Registration and Coffee

– Hibiscus Ballroom
Network and Visit Business Exhibit Tables – Foyer

8:15 am Aloha and Welcome – “Working For A Better Business Climate”

Sam Slom, President, Smart Business Hawaii

8:30 “Hawaii’s Visitor Industry—An Update and Outlook”

Mike McCartney, President,
Hawaii Tourism Authority

9:00 “Challenges for Business: Minimum Wage, Mandates and Obamacare”

Michael Palcic, Legislative Liaison, SBH
Jonathan Young, President,
Associated Builders & Contractors

9:30 “Who Are The ‘Millenials’ and Why They Are Important to Your Business”

Bob Sigall, Creative-1; Author,
“The Companies We Keep”

10:00 “Hawaii’s Tax & Legislative Update”

Tom Yamachicka, Interim President,
Tax Foundation of Hawaii

10:30 – 10:45

Brief Refreshment Break –
Visit Business Exhibits (Foyer)

10:45 “Tips For Success From Hawaii’s Successful Business Owners”

Mark Storfer, Hilo Hattie
Naomi Hazelton-Giambrone,
Element Media/Pacific Edge Magazine

11:15 “Technology That Will Help Your Business Soar”

Cole Slater, Maui Divers
Dale Evans, Charley’s Taxi
Peter Kay, Cybercom / Your Computer Minute

12 noon **Luncheon and Program –**
Hibiscus Ballroom I / II

12:30 KEYNOTE SPEECH:
“Proven Principles for Prosperity”
Patrick Snow, Motivational Speaker, Author

1:30 pm Adjournment • Mahalo for attending •

1:45 pm Private Sponsors/Directors
Meeting with Keynoter

**38th Annual Smart Business
Hawaii Conference**

Tuesday, May 13, 2014 – Ala Moana Hotel • Hibiscus Ballroom – 8 a.m. – 2 p.m.

SMALL BUSINESS 2014:
“WORKING FOR A BETTER BUSINESS CLIMATE”

featuring **Patrick Snow**, Motivational Speaker, Author

ADVANCE PAID RESERVATIONS REQUIRED (See Below) – Parking Validated – Arrive by 6:45 am

Name _____

Firm Name _____ Phone _____

Address _____ City _____ Zip _____

My Guest(s) _____ Firm _____

Luncheon Menu: Beef or Vegetarian

Enclosed is my check for \$ _____, for _____ (# of reservations)
@ \$75 for members and their guests • @ \$90 for Non-Members and at the door if space is available.

Full refunds until **May 12, 2014**. Make check payable to Small Business Hawaii and mail to:
Small Business Hawaii, Hawaii Kai Corporate Plaza, 6600 Kalaniana'ole Hwy., Suite 212, Honolulu, Hawaii 96825.

Stop the Waste and Misuse of Taxpayer Money

By Natalie Iwasa - CPA



Did you know real property tax exemptions for taxable properties will likely cost us over \$100 million next fiscal year? Unlike most costs, however, you won't see this as a line item in the budget. And the cost is likely higher, because the city doesn't even regularly assess some of the properties that receive exemptions.

We've already discussed nonprofit organizations under ROH Sec. 8-10.10 and the related taxpayer subsidy of lobbyists under these organizations, so let's take a look at

entities under Sec. 8-10.24, credit unions.

When credit unions were first established, they filled a void and provided services banks would not. Today, however, credit unions compete directly with banks while banks have expanded their services. According to the United States Government Accountability Office in its report on credit unions:

"... the 2004 and 2001 Survey of Consumer Finances indicated that credit unions lagged behind banks in serving low- and moderate-income households." (Emphasis added.)

In addition, most credit unions on Oahu have healthy bottom lines as well as healthy financial positions. Hawaii Business Magazine's August 2013 issue included its annual "Hawaii's Most Profitable Companies" report, and 4 of the 25 most profitable companies in the state were credit unions. Three of them had double digit profits as a percent of revenue. One boasted that its assets had grown from \$491 million in 2008 to more than \$750 million in 2013 – a 53% increase in five years.

Because of their exempt status, these organizations pay only \$300 per year in real property taxes, even though their combined assessed values total almost \$160 million. Should taxpayers be subsidizing these organizations? I don't think so.

Coconut Tree Tops in the Nation

Our beloved Coconut Palm Tree in Hawaii Kai, "Coco," was declared the winner as the Nation's Best Tree. In the championship round of American Forests' *Big Tree Madness* contest, "Coco" a towering coconut palm at the Hawea Heiau Complex in Hawaii Kai, beat out Missouri's "Big Sassy Basswood."

Voting on April 4, 2014 on the American Forests' Facebook page resulted in "Coco" receiving 64% of the votes to "Big Sassy Basswood's" 36%. During the three-week long contest, mirrored after the NCAA's Final Four basketball tournament, thousands of people from around the country voted for their favorite big trees. This was the second year of the contest.

The National Big Tree Program has recognized the beauty and critical ecosystem services provided by our biggest and oldest trees. More than 750 champions are crowned each year and documented in the biannual publication — the *National Register of Big Trees*. For more than 70 years, the goal of the big tree program is to preserve and promote the iconic stature of these living monarchs and to educate people about the key role that these remarkable trees play in sustaining a healthy environment.

Sopogy: Another Failed Hawaii Government Subsidy

In April it was reported that months before, the solar company, **Sopogy**, went under.

Dr. Panos Prevedouros, respected UH Civil Engineer had been critical of the firm—and its state support—for years.

Among other things, he said recently: "Along with a trio of highly capable mechanical and systems engineers I spent dozens of hours poring over the specifics of the micro-concentrated solar power touted by Sopogy which shut down several months prior to this April 22, 2014 article.

Sopogy was told by numerous engineers that their Kona projections were absurd and violated the second law of thermodynamics. Sopogy proceeded anyway with their original plan.

My multi-year effort was particularly painful because this incompetent technology had received the 2009 Blue Planet Foundation Award and my own Dean sat at the board of directors of BPF when this award was made. Keahole Associates, an Oahu venture of Sopogy, was promoted in University of Hawaii, College of Engineering literature.

This is only one sample of international humiliation for Hawaii.

Several lessons were observed but likely were not learned, as follows:

1. Good, honest engineering can reveal technical and economic duds.
2. Once a project (or company) is an engineering or economic dud, it will fail.
3. The demise of Sopogy is fortunate because duds like it can become a tax supported scheme concocted by greedy rent seekers and enterprising politicians who also create legal supports for the schemes. For example Hawaii's PUC considered preferential pricing for concentrated solar power to make sure that the 30 MW Kalaeloa scheme would make money (while the taxpayer would get fleeced.)
4. Media, politicians and environmentalists know nothing about engineering stars and duds, but they have bestowed upon themselves arbitrary decision wisdom that determines winners and losers.
5. Many people go along to get along, or do the wrong thing for money regardless of what the right, ethical or moral thing to do is.
6. There was abundant "me too" or follower behavior and scarcity of prudent analysis and caution.
7. The truth rarely comes out, or comes out after precious funds have been lost. In this case millions of tax dollars were lost at the Kona plant and large acreage in the Ewa plane was bulldozed.
8. HEI, the parent of HELCO and HECO knew the facts about Kona's Sopogy plant but did not make any apparent public disclosures when DHHL was proposing a mega version of the Kona power plant. Worse yet, HECO ran a Sopogy television commercial repeatedly from 2011 to 2013, touting Sopogy technology and HECO's commitment to ecology.
9. Hawaii's blind promotion of a sub-standard technology sets a bad precedent in an area where Hawaii already is weak.
10. Nobody will likely be held accountable for the wasted tax credits or apologize for rewarding incompetence. Will there be an AD's inquiry of DHHL and HECO from power sources other than their own. Sopogy's Kona power plant appears nowhere."

Smoking No Longer Permitted at Maui Beaches and Parks



High school students, community leaders and environmental groups celebrated Earth Day 2014 with the passage of a bill banning tobacco use at all Maui County parks, beaches and recreational facilities. The movement to create smoke-free beaches began in January when a group of high school students led an island-wide cleanup and collected more than 14,000 cigarette butts in under two hours.

Students worked with Surfrider's Maui Chapter, the Coalition for a Tobacco-Free Hawaii and Sustainable Coastlines to organize the cleanup and then present their findings to the Mayor and County Council members.

The passage of the Maui bill was exceptionally fast, with only 42 days separating its introduction and final vote. **Andrew O'Riordan**, Volunteer Coordinator of Surfrider Maui and a teacher at Maui Preparatory Academy, attributes this feat largely to the involvement of Maui high school students.

Cigarette butts are the most commonly littered piece of trash in the environment, with an estimated 4.2 trillion butts littered world wide each year.

"The bill comes on the heels of a nationwide movement concerned with health and environmental pollutants, which is why it is so fitting that today is Earth Day," said Council Member **Don Guzman**, who introduced the bill and was there to celebrate its passing. Council Members honored the efforts of the various environmental and public health organizations who championed the bill in a small ceremony on the lawn of the County Building. Mayor Arakawa signed the bill into law on Friday, May 2.

What's a Psychopath to Do?

By A Free Thinker

When I was in school, no one had ADD, ADHD, autism and the like. There was only one slower child with a sweet temperament and another who was very energetic and clever. They were just different from the majority so they were sat isolated from the rest of the class. They stood out, but they did not have labels with abnormal or negative connotations. The slower one may have been less academically inclined, but the energetic one was alert and had quite a sense of humour. He was probably just bored with the mundane routine of school we all plodded through. He would probably be labelled with ADHD nowadays since authority would not want other students becoming conscious of the truth that school is at least partially a sort of joke.

Since adulthood is an advanced version of kindergarten, labelling also occurs in professional spheres. It seems as though in modern times, anyone with any sort of outstanding quality, really anyone having any personality at all, is given some negative label. What seems to now be trendy is to pigeonhole people who have certain traits required to be successful in business into a spectrum of psychopathy (corporate psychopathy as opposed to criminal psychopathy).

If you research lists compiled by experts on psychopathic tendencies, many are precisely qualities needed to be successful as a lawyer, CEO or surgeon. So, why make them out to be sinister or undesirable traits? Why is it 'callousness' or 'lack of empathy' as opposed to say, detachment, a more positive label? Attributes revolving around ruthlessness, cunning and confidence are skills for things many people find difficult to do like firing employees, making hard business decisions or performing brain surgery for hours.

Whatever society wants to label them as, different people have their uses.



New HMAA Baby Care Program

The Hawaii Medical Assurance Association (HMAA) is launching a maternity wellness incentive program, "Maternity and Baby Care."

"With our Maternity and Baby Care incentive program, HMAA will be the first private insurer in Hawaii to directly provide maternity wellness incentives to its members," said **Dr. John E. Aoki**, HMAA's chief medical officer. "Every newborn deserves the opportunity for a healthy life."

HMAA, in partnership with the March of Dimes, BabyBeat, and Safeway, will provide a unique set of educational wellness incentives for participants, including a custom Healthy Baby Kit that provides information on what to expect during pregnancy and on eating healthily. Incentives for the completion of various program levels include a free six-month rental of physician-grade Fetal Doppler equipment (a device used to listen to the baby's heartbeat) and a free three-month supply of diapers (valued at up to \$250).

The new incentive program for maternity and baby care management, which starts on May 1, is part of a suite of wellness offerings for HMAA members. The program is dedicated to helping HMAA's pregnant members take measures to ensure a healthy delivery and healthy baby by providing the necessary education, intervention and guidance, along with incentives to encourage active participation and completion.

great quotation

"The price of success is hard work, dedication to the job at hand, and the determination that whether we win or lose, we have applied the best of ourselves to the task at hand."

— Vince Lombardi

Temporary Tax - Not so Temporary in Hawaii

By **Tom Yamachika**, Tax Foundation of Hawaii

Editor's Note: Come see and hear Tom at the SBH 38th Annual Business Conference, Tuesday, May 13 at the Ala Moana Hotel.

Yes, to you and me it's a common word. But in the world of Hawaii tax it seems to have an entirely different meaning.

Let's take as an example our hotel room tax. When lawmakers initially passed it, it was to be a temporary 5% tax on hotel rooms to fund construction of the Hawaii convention center. Once the center was built, they said, the tax will go away.

That was in 1986.

And by the way, the tax isn't a mere 5% any more. Just last year, lawmakers were considering the "temporary" increase from 7.25% to 9.25% that they had approved a few years earlier, and they decided they couldn't live without the revenue. So they made the 9.25% rate permanent. Isn't 28 years a long time for a tax that was supposed to be temporary?

This session lawmakers were considering the fate of a tax that is imposed on each barrel of petroleum products. It started off at a nickel per barrel to create a fund for environmental cleanup to be used if a disaster like the Exxon Valdez ever were to take place off our shores.

In 2009, lawmakers raised the nickel to \$1.05, an increase of 2000%. This was to be a temporary increase because the state had fallen upon tough economic times, and it is supposed to disappear on July 1, 2015. Surprise, surprise! Two bills that are still alive this session would extend the life of the higher rate for fifteen more years. That would mean higher prices for everything involving petroleum products, including gasoline and electricity (guess what we burn to generate electricity).

At the legislature, it was pointed out that the many special funds that are fed by this tax support a variety of environment related programs and services in the Department of Land and Natural Resources and the Department of Health. Those departments came out in force, begging lawmakers to not scrap the tax for that would lead to the demise of those programs and services. (This, to us, doesn't make sense because the same programs and services can be paid for with general fund money. That money is still green, right?) Environmental activist groups, not wanting those programs and services to be trashed, also came out in strong support of the bills. Only the Tax Foundation of Hawaii was there to remind lawmakers about the history of this tax and that it was given a sunset date for a reason.

Of course, the fun doesn't stop there. You might recall that in 2009, lawmakers, again citing hard times, passed a temporary increase in our individual income tax rates. They also added a few other temporary nasty features like an absolute limit on itemized deductions for individuals with adjusted gross income exceeding certain amounts.

The enhanced tax and the nasty features are supposed to go away on December 31, 2015. As far as we could tell, there were no bills this session that seriously suggested extending this tax increase. But we really need to watch what happens next session, especially since this year is an election year and next year isn't.

Any tax that is supposed to be temporary deserves to be watched very carefully, because the meaning of a temporary tax sometimes is quite different from what you and I may think.

Go to the Tax Foundation of Hawaii's website for more information and additional articles: <http://www.tfhawaii.org/>

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Waste Management, Principals, Indicted by Feds

By **Malia Zimmerman**, Hawaii Reporter

After 7.5 million gallons of contaminated water, toxic soil, trash, fecal matter and human medical waste poured into west Oahu's ocean waters on January 13, 2011 from the Waimanalo Gulch Sanitary Landfill, state and federal agencies opened an investigation into **Waste Management of Hawaii** and its principals.

The event, deemed an "environmental catastrophe" by local environmentalists, led to the temporary shut down of Waimanalo Gulch Sanitary Landfill, Oahu's only public landfill. Beach closures also impacted thousands of residents on the west side of Oahu and the prestigious Ko'Olina Resorts.

More than three years later, a federal grand jury has returned a 13-count indictment charging Waste Management of Hawaii, the company's General Manager and Vice President **Joseph R. Whelan** and environmental protection manager **Justin H. Lottig** with multiple felonies, including "violations of the Clean Water Act, conspiracy and making false statements to the Hawaii Department of Health and the U.S. Environmental Protection Agency."

The April 30 indictment alleges from April 19, 2010 until Dec. 23, 2010, "Justin Lottig conspired with employees from an environmental consulting firm to submit false and outdated information to the Department of Health Clean Water Branch in June, August and September 2010. The purpose of the conspiracy was to convince Department of Health Clean Water Branch that the landfill had an adequate storm water management system in place in order to renew its storm

water discharge permit."

The indictment also alleges from Oct. 27 to Dec. 23, 2010, Lottig and Waste Management of Hawaii "violated the permit by knowingly failing to inform the Department of Health Clean Water Branch of material changes in the storm water management system that would have alerted the Department of Health Clean Water Branch that an inadequate system was in place."

The company issued a statement April 30 acknowledging the indictment of Waste Management of Hawaii and two employees as defendants.

"We believe there is no basis for these charges by the U.S. Attorney's Office and we intend to vigorously defend against this extraordinary action," Waste Management said. "Safety, ethics and environmental protection are core beliefs of our business at Waste Management and we operate our facilities with the utmost regard for the health and safety of employees, neighbors and the environment."

Lyle Hosoda, attorney for Lottig, called the indictment a "misjudgment" by the U.S. Attorney's Office, and the charges, "baseless and unwarranted."

"Charging an employee with crimes for simply going to work and exercising his best efforts and judgments to try to manage and prevent further damage and disaster in the face of an unprecedented amount of stormwater is revolting, and cause for alarm and concern for all employees, everywhere," Hosoda said. "Mr. Lottig and all of the employees of WMH are and continue to be committed to lawfully and responsibly handling our community's waste, while protecting our land and ocean. They did so and continue to do so, even in

the face of both rain and political storms."

Back in 2011, the city, state and Waste Management reported the trash breach was caused when a "100-year storm" and a "catastrophic weather event" hit Oahu on January 13. More than 11 inches of rain fell in the area within 24 hours, comparing to the annual rainfall for the area, which is 19 inches. According to the indictment, "the storm water was required to go through the landfill's storm water management system to ensure that it did not come into contact with waste in the landfill before being discharged to Hawaii's coastal waters. The NPDES permit prohibited WMH from causing or contributing to a violation of Hawaii's state water quality standards."

Environmental Watchdog **Carroll Cox** scoured the coastline after the trash breach, collecting and photographing medical waste and dangerous chemicals. He maintains the "environmental catastrophe was not due to what Waste Management and the government called the "storm of the century", rather it is due to mismanagement.

"We warned the DOH and public that something like this just might happen ... after the first heavy storm in late December, when we found large sheets of landfill liner in the outfall by the ocean and in the stream. We reported evidence that cell E6 in the Waimanalo Gulch Landfill had been damaged and an overflow occurred. This was surely signs of problems to come," said Cox, who helped federal investigators with their case.

Cox said the U.S. Attorney's office should be commended for its long overdue indictment against Waste Management Inc. and its employees for their alleged improper behavior while operating the landfill.

Read the full story at HawaiiReporter.com: <http://www.hawaiireporter.com/?p=499164>

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May 2014

6600 Kalaniana'ole Hwy., Suite 212
Honolulu, Hawaii 96825
Phone 396-1SBH (1724)
www.smartbusinesshawaii.com

