

Hawaii Reporter Celebrates 10th Anniversary

Ten years ago, Honolulu journalist **Malia Zimmerman** was out of a job but had an idea. She saw the future in journalism and started Hawaii's first daily, electronic newspaper, Hawaii Reporter.com

Over the years, Hawaii Reporter has broken many top stories reported locally and picked up and distributed internationally. The list of credits is impressive: ABC TV's 20/20, The Wall Street Journal, Fox News, Drudge Report and many others. Recently, HR has worked with Hawaii News Now on a series of penetrating investigative reports. Malia also appears on KHVH radio daily at 7:05 am, Monday through Friday.

HR vows to report the "real news" and more of it as the news source expands.

The award winning Hawaii Reporter, along with investigative reporter **Jim Dooley**, political cartoonist **John Pritchett**, KHVH

Continued on page 2.



The 2012 Legislature ended on May 3 with delays, missed deadlines, marathon conference committee meetings, last day floor sessions in the House and Senate and finally — more fees, spending, regulations and less freedom



pressed into new bills that will soon pass and become law in Hawaii. Details on page 3.

FBI's Tom Simon to Discuss Business Investment Scams in Hawaii

FBI Special Agent **Tom Simon**, will be SBH's special guest speaker at the next monthly SBH Sunrise Networking Breakfast, Thursday, May 24, in the Pineapple Room, Macy's Ala Moana (3rd Floor), from 7 – 8:30 am.

Simon will discuss business investment scams targeting Hawaii's businesses.

The public is welcome to the SBH Networking Sunrise. Advance reservations are required and are first come, first serve.

Last month, Outrigger Enterprises CEO **David Carey**, discussed Hawaii's visitor industry and business challenges in Hawaii.

SBH members and their guests pay \$25 (in advance) for networking, the program, a complete buffet breakfast and free parking.

Participants are all introduced and may bring promotional materials. The cost is \$35 at the door if space is available.

Call Darlyn at SBH 396-1724 for reservations or mail the reservations form on page 11. You can also register on line: <http://smartbusinesshawaii.com/index.php/events/rsvp>.

SBH MEMBER CALENDAR

PHONE 396-1724 • FAX: 396-1726

Monday, May 14

SBH Board of Directors Meeting
SBH Office in Hawaii Kai • 11:45 am

Thursday, May 24

SBH Sunrise Networking Breakfast
Tom Simon – FBI Special Agent
Macy's Pineapple Room
Ala Moana • 7 – 8:30 am

Friday, June 1

Hawaii Reporter – 10th Anniversary
Waialae Country Club • 5:30 – 8 pm

SmartBusiness
HAWAII

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Wrap Up of the 2012 Hawaii State Legislature • Page 3



Smart Business Views

By Sam Slom, President – Smart Business Hawaii

The 2012 Legislature is over but the impact of new laws, fees and bonded debt will be with us for years. Read the Senate wrap up of the Session on page 3.

Next month SBH in conjunction with **PAYCHECKS HAWAII**, will publish ratings for all 76 legislators on their support for business. It will be handy for the 2012 elections.

FBI Special Agent, **Tom Simon**, keynotes SBH's next monthly Business Networking Sunrise, Thursday, May 24, 7 – 8:30 am in the Pineapple Room. Macy's, Ala Moana Center. Simon will discuss the many investment scams affecting Hawaii's businesses. Call Darlyn to RSVP (396-1724) or see reservation form on page 11.

David Carey, CEO of Outrigger, told an SBH audience last month that while it is true visitor revenues are up, so are expenditures and costs from taxes, fees, and regulations, making the bottom line margin smaller than the media like to report.

Peter Kay did his usual outstanding job in discussing "Secrets of Social Media for Business" last month at the special SBH networking luncheon at the Outback Steakhouse in Hawaii Kai.

"Forward?" Forward is the campaign theme for President Obama this year. "Move Oahu Forward" is the theme of the latest PR scam from the elevated rail folks. They have enlisted 30 top Hawaii businesses to carry water for them in the soon to be failed heavy steel, elevated, \$6 billion rail project. These are many of the same big businesses—including the Chamber of Commerce of Hawaii—that hailed "Thumbs Up!" years ago to get you to accept a 25% GET tax increase. You'd think they would learn.

Carlisle Saves Lunch Wagons: Honolulu Mayor and rail champion, **Peter Carlisle**, has signed a City Ordinance last month to allow lunch wagon trucks to park on Punchbowl Street and use a parking meter for up to 3 hours in order to feed starving lawmakers and council members. Until Councilwoman **Tulsi Gabbard** introduced the ordinance, the City was harassing the lunch wagons and made them move after only 15 minutes even though they paid for meter parking. Plate lunch for all.

Word of Wisdom: Friend **Scotty Anderson**, chair of Neighborhood Board #3 (Waialae Kahala) among other endeavors, was rummaging through the dictionary and came up with this timely word:

Ineptocracy (in-ep-toc'-ra-cy) - a system of government where the least capable to lead are elected by the least capable of producing; and, where the members of society least likely to sustain themselves or succeed, are rewarded with goods and services paid for by the confiscated wealth of a diminishing number of producers.

SBA Awards May 9 starting at 11:00 am with the luncheon and awards presentation to commence at 12 noon. The event will be at the Hilton Hawaiian Village. Honor our best! Register at www.scorehawaii.org

World Surfing Reserve: Former State Senator and World Surfing Champion, **Fred Hemmings**, whose last bill introduction in 2010 was creating a World Surfing Reserve in Hawaii to honor the sport, saw the legislation quashed. At the last minute of the 2010 Session, some House Democrats scuttled the legislation. Governor **Linda Lingle** then issued an executive order creating the reserve.

Last month, California celebrated another state World Surfing Reserve in Santa Cruz. Hemmings comment? "Where are Reps. Berg, Horita, Say and rubber stamp House Democrats to put a stop to this.....They did such a good job of turning Hawaii's surfing reserves legislation into a very negative episode. Fortunately governor Lingle saved the concept, unfortunately Hawaii already had a black eye."

Justice or Deep Pockets? The state has been ordered to pay nearly \$3.3 million for a fatal Maui accident after a car plunged from a scenic lookout, even though the driver had been drinking (three times over the legal limit) and was using marijuana.

Are You a Maxxinista? **TJ Maxx** has returned to Hawaii with the first of 3 new stores in Ward Center.

What? Not receiving your free weekly (Wednesday) electronic copy of *SBH Views + News*? Call Darlyn at 396-1724.

Hawaii Reporter will be celebrating its 10th year as Hawaii's first daily electronic newspaper, Friday, June 1, 5:30 – 8 pm at the Waialae Country Club. Go online to HawaiiReporter.com or phone 808-306-3161 to reserve. HR's **Malia Zimmerman** gives you the "News Behind the News," Monday-Friday, at an earlier time, 7:05 am, KHVH radio (830) during the **Rick Hamada** Show. Tune in.

Want more local business information? Please visit the several SBH websites at: www.smartbusinesshawaii.com, www.educate808.com and www.sbhfoundation.org.



Hawaii Reporter

Continued from page 1.

radio's **Rick Hamada** and dozens of local and national contributors, has set a standard for the new media—and for fairness in reporting local issues, no matter whose toes get stepped on.

There is more exciting news to come. If you want to learn more and to help congratulate Hawaii Reporter, plan on attending HR's 10th anniversary banquet, **Friday, June 1, 2012, Waialae Country Club, 5:30 – 8 pm.**

For details, go online to HawaiiReporter.com or call 808-306-3161.

Hawaii Reporter is also online on Facebook and Twitter.

Hawaii Reporter's stories and viewpoints are frequently shared in this newsletter.

Small Business News

Volume 37, No. 5 • May 2012

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Published monthly by Smart Business Hawaii,
Periodicals Postage Paid at Honolulu, Hawaii.
Small Business News (ISSN #0279-8395)

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Small Business Hawaii,
6600 Kalanianaʻole Hwy., Suite 212
Honolulu, Hawaii 96825.

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.

SBH is dedicated to improving Hawaii's business climate, creating a better Hawaii through private, competitive enterprise, and promoting, educating, and effectively representing small business, while advocating tax reduction, lower business costs and job creation incentives to diversify Hawaii's economy.

SBH invites comment small business issues in Hawaii. Send them to Small Business Hawaii by the 10th of the month for the next issue. SBH accepts advertising only from SBH member firms. Call SBH for details on advertising.

2012 Legislative Session: No Respect for Taxpayers

The Hawaii State Senate Minority Report

By **State Senator Sam Slom**
Senate Minority Leader

What a turn around from 2011. He is the most unpopular Governor in the U.S., has angered his union, environmentalist and special big business friends, many in his own Democrat Party and lost most of his initial staff, but still Governor Neil Abercrombie's footprints are all over the 2012 Legislative Session. He was the clear winner.

The 60-day working session which began in mid-January, concluded on May 3. The Governor, who changed his strategy from a year ago, was everywhere during the Session. He was highly visible at hearings, in the House and Senate galleries and even sitting at the final conference committee table.

There has been a continuing and widening split between the House and Senate Democrats during the past year—they didn't have Republican **Linda Lingle** to unite them — and the Gov took full advantage of this. The House (43 Democrats, 8 Republicans) was more than willing to work with him and to give him nearly all he wanted while standing stronger in the end to the Senate (24 Democrats, 1 Republican).

The House held out on the operating supplemental budget, dissed the Senate Democrat centerpiece \$500 million CIP, battled for bills the Governor wanted and even got several extensions past Senate deadlines.

But what about the taxpayers and small business? As is the usual case, they got no respect. There was nothing done to reduce any taxes, lower your costs of living or to give you more consumer choice, Government will make choices and "investments" for you.

It would have been even worse but this is a major election year. Because of reapportionment, all 76 House and Senate seats are up this year. And reapportionment is still in chaos with a federal court challenge based on the 14th Amendment set for May 18. Candidate filing deadline is June 5.

Many outside the Big Square Building described this as a quiet session. But there was plenty going on behind closed doors.

This year also saw more "gut and replace" bills earlier and more often than ever before. This process makes it more difficult for citizens to follow the actual contents in a bill. There were also attacks on freedom of information. And Senate and House leadership agreed on more disagreeable bills than previously thus



The State Budget bill held up the legislative process in early May to a point where several other bills had to wait until the convening of this large conference committee meeting on April 30.

avoiding the public scrutiny of the conference committee process.

The \$11.2 Billion operating budget was agreed upon at 3:30 am on Saturday, April 28. Another \$3.1 billion was added for capital projects. This was the latest a budget bill was approved in many years. No fiscal bill could pass until the budget was agreed to. In the end, the budget was up from last year, added still more government employees, and was higher than the Governor requested. Many Democrat floor speeches boasted of "being responsible to the Governor's vision." (Mine was the only "no" vote in the Senate).

The pledge to repay the money to the Hurricane Relief and Rainy Day Special Funds, taken by the Executive Branch in 2011 to balance the budget, was not repaid; instead another \$11.2 million went to non-profits and organizations close to the Majority Party in the form of Grants-In-Aid. (Mine was the only "no" vote in the Senate).

The Governor's #1 priority, a \$200 million Kaka'ako land give away to the State Office of Hawaiian Affairs (OHA), for a ceded lands agreement, was fast tracked. It is not a universal settlement, it will not end all law suits against the state and there will be more demands from OHA and others next year for land entitlements. (Mine was the only "no" vote in the Senate). The Governor can now say he accomplished what all previous Governors attempted but could not achieve.

The #2 priority by the Governor, was planning for a \$2 – 3 billion (forget that \$1 billion figure you read in the mainstream media) undersea electric cable to link the Islands. If you like the elevated \$6 billion Oahu rail, you'll love this cable. Proponents say this is only a "regulatory framework." Are you kidding? They salivate over this cable as does the state's chief monopoly and most profitable utility, HECO. HECO will be the big winner in gaining state assistance and surcharges from utility ratepayers, now the highest charged in the U.S. It is true that there would be economies of scale for a statewide grid, but the threat of natural or criminal disruption causing a statewide loss of all power is real. Then there are those wind turbines on Lanai. Senators Hee, Chun-Oakland and Slom voted "no".

Still another Abercrombie initiative was the so-called "Justice Reinvestment Initiative," which was controversial and went through several revisions. In the end it passed, setting the stage for changes in parole, early release and return of prisoners from the Mainland. There are many good changes, but it still seems tilted towards criminals and a challenge to some public safety. We'll have to see how it is actually implemented.

In the end, the Governor did not prevail in his desire to fast track state and county projects from environmental oversight. It wasn't for lack

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“Move Oahu Forward,” Reminiscent of “Thumbs Up”



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

And now, finally out of hiding, the suits come to the rescue of The Train:

We have not heard a peep out of the suits up to now. But one crack of the whip from Ringmaster Dan and they all jump to their appointed places to await the talking points memo, which assumedly will arrive shortly.

Thinking Ahead About the Future of Honolulu

By **Anne Niethammer**

Picture the City and County of Honolulu four years from now in 2016. Hawaiian Electric Co. has raised rates such that a typical family of four is paying over \$200/mo. for electricity.

The Board of Water Supply and Department of Environmental Services have substantially raised water and sewer rates. For a single family or duplex dwelling, assuming the current percentage increases, the monthly base charge will be over \$86.00/month even if you never turn on a faucet.

If these increases aren't adequate to fund the over \$1 billion dollar EPA settlement requirement to upgrade the wastewater collection and treatment systems, another increase will be needed. Gasoline prices are over \$5.00/gallon - our roads are full of potholes and deteriorating. Acres of prime farmland in Ewa have been lost to a housing developer. Local farms that once supplied fresh produce and products at reasonable prices are gone.

Now, picture the City & County of Honolulu four years from now if our current administration is still in office. The rail project

This is so reminiscent of the 1995 “Thumbs Up, Hawaii” campaign that Hawaiithreads.com rates as one of the worst ad campaigns of all time. They said, “What this campaign tried to do was whitewash Hawaii’s bad business image by painting a false and rosy picture that this was a great place to do business and a great time (circa 1995) for you to spend your hard earned money on big ticket items.”

The problem that the suits and Sharon Weiner, their PR group, face is that now that people have figured out that

- a) traffic congestion will be worse in the future with rail, and
- b) the train is less energy efficient than our buses, and
- c) taking into account total costs, rail is far more expensive than buses, and
- d) we cannot afford it, then that is a genie they are not going to be able to stuff back into the bottle.

If they couldn't fool the public in 1995, before the Internet, before Facebook, before Twitter, they sure as hell are not going to be able to do it now.

Cartoon by John Pritchett as published in HawaiiReporter.com and PritchettCartoons.com.

With the City’s Rail Plan, Tail is Wagging the Dog

By **John M. Corboy**



The Honolulu Authority for Rapid Transportation has told the Hawaii state legislature (*Honolulu Star Advertiser*, April 17, 2012) that so few passengers will ride the planned \$5.3 billion elevated steel on steel rail, that fares will likely

cover only 40% of the costs.

Taxpayer subsidies will exceed \$40 million annually by 2030.

So State Senator **Donovan Dela Cruz**, D-North Shore, has proposed development around depots to encourage up to 130,000 more people to live near transit stations and to ride the train (**SB 2927**).

Necessarily expanding the system with extra trains to carry these additional passengers will increase operating and maintenance costs, of course, so that even more riders would be needed to cover these higher expenses.

Ever more and larger trains would be required for all these additional passengers, and so on, and so on.

Not enough riders to keep the train in business? Just bring in more people! The tail is wagging the dog.

2012 Legislature Continued from page 3.

of trying. Supporters said it was necessary “efficiency,” but they weren’t willing to extend this efficiency to private permit projects. It was the Republicans in the House and Senate that stood up for those in the public who did not want to lose their input in planning projects.

Much of this session, like most, is spent beating back more tax increases, extra large fees, and just plain dumb ideas like a state bank—to be operated by the Governor. Seriously? There was gambling of course, increased film credits, and another run at van cams, red light cameras and a plastic bag ban. The Streamline Tax (tax on your internet purchases) was beaten for the 8th straight year. They failed; but all will return in 2013.

More civil union, same sex-like laws were enacted

Sadly, neither the state Mammal, our Native Hawaiian Hoary Bat, nor a new entry, the State Microbe (*Nesiotobacter exalbescens*) passed.

An interesting event took place in the Senate on the final day. A bill involving the military Tri-care program, passed unanimously in the Legislature but was vetoed by the Governor. The Senate, voted to over ride that veto, 25 – 0. However, Speaker **Calvin Say** never brought it up in the House and the veto stood. Since 1962, there has been only one override of a Democrat Governor’s veto: Governor Cayetano on the subject of age of consent. Republican Governor Lingle had more than 100 vetoes overridden in her eight years.

The Governor has until June 25 to release a list of any additional vetoes this year. His final action on all bills must occur by July 10. That is also the day Legislature would have to come back in session to over ride. Don’t bet on it.

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Law Suit Filed to Stop Exclusion of Military Under Reapportionment

By **Robert Thomas**

The State of Hawaii has a long history of refusing to count military personnel and their families for purposes of reapportioning the Hawaii State Legislature. A lawsuit filed last month asks a three-judge federal court to enforce the Equal Protection Clause of the U.S. Constitution and require the State to count all residents of Hawaii.

The 2010 U.S. Census reported 1,360,301 residents as the total resident population of Hawaii. The Census includes military personnel, military families and students as residents of Hawaii. It also counts minors, non-citizens, and incarcerated felons.

In 1965, in *Burns v. Richardson*, the U.S. Supreme Court upheld Hawaii's use of its count of registered voters as the population basis for apportionment, a population base which effectively excluded low-registration groups such as military personnel and students, many of whom were below the pre-26th Amendment voting age of 21. Contrary to popular opinion, the Burns case does not permit the State to ignore military personnel and their families. The Court allowed counting only registered voters because there was no evidence doing so would result in apportionment substantially different from that which would have resulted if the State had simply counted everyone.

The Hawaii Constitution was amended in 1992 to require the Reapportionment Commission to count only those deemed "permanent residents," instead of registered voters. Only Hawaii and Kansas use a population base other than the U.S. Census count of residents. In the current reapportionment cycle, Kansas extracted far fewer Census-counted residents than Hawaii, and in its August 3, 2011 proposed plan, the Commission did not remove anyone.



Brave soldiers in our all-volunteer U.S. military are currently not counted in the 2012 State of Hawaii Reapportionment plan violating the Equal Protection Clause of the U.S. Constitution. A lawsuit has been filed in Federal Court to correct this problem.

The Commission subsequently presented a second plan which extracted approximately 16,000 military personnel, military families, and students, but included non-citizens, minors, and incarcerated felons who cannot legally vote.

This wasn't enough, and two separate lawsuits were filed in the Hawaii Supreme Court demanding the Commission exclude all active duty military personnel, military families and students whom it deemed not to be "permanent residents." After a widely-criticized defense presentation, the State Supreme Court upheld the claims. As a result, the Commission did not count 108,767 Census-counted residents of Hawaii – nearly 8% of the state's entire population. These people were not counted by the Census in any state.

The State's choice to ignore them had palpable consequences: it shifted a seat in the state senate from Oahu to Hawaii Island and produces senate and house district which deviate grossly from the Constitutional requirement that representative district be of substantially equal population size. Hawaii continues to treat military personnel, military families, and students as second-class citizens with representation even inferior to non-citizens.

Commission chairwoman, former state judge Victoria Marks said, "I think you're opening yourself up to a federal lawsuit if you exclude (military) dependents on an across-the-board basis."

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Political Pressure, New Competition Bring New Cuts To Honolulu Star Advertiser Advertising Rates

By **Jim Dooley**, HawaiiReporter.com

Honolulu's monopoly newspaper has again slashed advertising rates in the face of new government objections to the charges as well as competition from a newcomer to the market.

Star Advertiser publisher **Dennis Francis** notified lawmakers Friday that the newspaper has halved the \$90 per-column-inch charge it has been assessing for publication of non-judicial foreclosure notices. The ads are a lucrative source of income for the newspaper.

"In our meetings with legislators, some have expressed concerns regarding the cost of non-judicial foreclosure ads," Francis said in a letter to lawmakers.

"Effective immediately, we have reduced our rate from \$90 per-column-inch (pci) to \$45 pci," the letter said.

The notices must be published by parties pursuing foreclosure actions via out-of-court proceedings. Costs of the ads are paid by the fore-closers.

State law now effectively requires publication of the Honolulu notices in the *Star Advertiser* but a bill now pending at the Legislature would amend that statute in ways that could

benefit a new weekly and online publication here called *Island Sun Weekly*.

The letter from Francis was sent to Senate and House members of a conference committee now considering the bill. A member of the committee, Sen. Sam Slom, provided a copy of the letter to Hawaii Reporter. Slom is a supporter of, and occasional columnist for, Hawaii Reporter.

Accompanying the rate reduction announcement was a request from Francis for changes to the pending bill, **HB1875**, that would protect his newspaper's foreclosure ad business.

Francis invoked the U.S. Constitution in making the request.

"When the state of Hawaii places constraints on the publication of notices concerning the taking of real property such as allowing notice of foreclosure sales on the Internet only, the state essentially uses its power to inhibit the due process protections guaranteed by the U.S. Constitution," the letter said.

"The purpose of notification should be to reach as many people as possible," the letter said.

"Among other things, the notice serves to provide the owner and others that the property will be sold at auction. If such notice is limited to the Internet or newspapers that are not of general circulation, there is a strong likelihood that the person who stands to lose their house or potential buyers of the property may not see the notice," Francis asserted.

Legal challenges to the process could follow and a successful one "would chill the entire foreclosure process in Hawaii," the publisher said.

Francis warned against what he called "conflicts of interest" in other states where "small weekly newspapers" which publish foreclosure notices are affiliated with companies involved in "the foreclosure service business."

That description appears to fit *Island Sun Weekly* and its owner, Rim Publications, incorporated here last year by Washington attorney **Stephen Routh**, who is active in the foreclosure business in several western states.

Routh and his businesses were the subjects of lengthy reports posted earlier this year on local blog site *ilind.net*, another in Washington state, *Crosscut.com*, and the Portland Oregonian newspaper.

Attempts to reach Routh and *Island Sun Weekly* editor **Dena Cassella** this weekend

via email were unsuccessful.

Francis did not immediately respond to emailed questions.

HB1875 is a multi-purpose bill meant to enact numerous changes to Hawaii's mortgage foreclosure system that were recommended by a state task force created by the Legislature in 2010.

The publication requirements are a small part of the measure.

Earlier versions of the bill gave the Honolulu foreclosure business to the *Star Advertiser* by requiring publication "in a daily newspaper having the largest circulation" in the county where the foreclosed property is located.

But **Michael Wong**, an attorney for a Routh law firm here, RCO Hawaii LLC, recommended changes to the measure in legislative testimony that cited "a dramatic increase in the costs for publishing (a foreclosure) notice on Oahu in the largest and only daily newspaper on Oahu."

Wong said average publication costs rose from \$800 in 2008 to \$2,000 this year and predicted that they could top \$4,000, if other anticipated changes to foreclosure laws are enacted.

Wong recommended changes which have been incorporated into the current version of the bill.

As written now, publication is required in a newspaper "of general circulation."

The bill now defines a general circulation newspaper as one that is distributed at least weekly to at least one per cent of the county population.

Wong said nothing in his written testimony about the ties between his law firm, Routh and *Island Sun Weekly*.

He said his law firm is "dedicated to the representation of the mortgage banking and default servicing industry" and serves companies in Alaska, Idaho, Arizona, Washington, Oregon, California, Nevada and Hawaii.

Francis, in his letter to lawmakers, warned of possible conflicts of interest when parties or participants in a foreclosure "have a financial interest in a newspaper" that publishes foreclosure notices.

"A number of western states, including Washington, Oregon and Idaho, have experienced challenges with conflict of interests with the ownership of small weekly newspapers" that publish foreclosure notices, said Francis.

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Reapportionment

Continued from Page 5.

The federal legal challenge to the State's reapportionment plan seeks to end this discrimination, and require the State to count military personnel, military families, and students.

Based on the supremacy of the U.S. Constitution over state law, the federal court is being asked to uphold the Constitution's equal protection clause, affirm the principle of equal representation for all persons, and end Hawaii's long-standing and politically motivated exclusion of Census-counted residents.

Robert H. Thomas is one of the preeminent land use lawyers in Hawaii. He specializes in land use issues including regulatory takings, eminent domain, water rights, and voting rights cases. He currently serves as the Chair of the Condemnation Law Committee of the American Bar Association's Section on State & Local Government Law. Robert is also the Managing Attorney for the Pacific Legal Foundation Hawaii Center, a non-profit legal foundation dedicated to protecting property rights and individual liberties. Reach him at rht@hawaiilawyer.com.



Hawaii Prisoners Should Not Be Released Early as Proposed Under Justice Reinvestment Act

By Rep. Barbara Marumoto, R-Kaimuki, Kahala

This state's proposed Justice Reinvestment Act, now in the form of (SB 2776, SD2 HD2, Relating to Public Safety), is an "early prisoner release bill" that amends current state law in a manner that can affect neighborhood security.



With 1,100 prison inmates released in the first three years of the program, there will be some recidivism, some crimes and many victims. Why the need for this early release? Is it cost-cutting? If so, is public safety jeopardized?

Section 13 requires that the Authority parole an inmate no later than eighteen months prior to the expiration of his/her court-imposed maximum sentence if the offense is a Class A felony. The applicable time for Class B and Class C felons is no later than six months and twelve months, respectively.

This administration wishes to mandate early parole for potentially the most dangerous of these three classes of felons. Although the early release is subject to the Hawaii Paroling Authority's determination that the inmate has an acceptable parole plan, the Authority's discretion regarding the timing of parole is significantly compromised.

Early release, as well as other components of the Justice Reinvestment Initiative, is based on a so-called "evidence-based, data-driven approach". The proponents of Justice Reinvestment repeatedly point to the fact that they will seek out low risk candidates, and justify the use of broad, sweeping changes merely because they are based on empirical data. Before we get caught up in the hype, let us stop for a moment and remember that "evidence-based practice" comes

Continued on page 10.

There have also been "recent complaints regarding the practice of rates being inflated for the publication of mortgage foreclosure notices by vertically integrating the foreclosure service business," said Francis.

In emailed questions to Francis, Hawaii Reporter asked how much income the newspaper realizes from publication of foreclosure notices and if the business will still be profitable now that ad rates have been cut in half.

He was also asked if the changes he has suggested to HB175 were aimed at blocking Island Sun Weekly and Rim Publications from publishing the ads.

Francis has not responded to the inquiries.

Francis wants lawmakers to re-define a general circulation newspaper as one that:

- Has a circulation "equal to or greater than twenty per cent of the county population."
- Has no financial ties to "an agent, employee, trustee, commissioner or representative of a lender conducting a foreclosure sale."
- "Carries news of a general nature and not just news of interest primarily to an organization, group or class."
- Is published "at least weekly."

The *Star Advertiser* is owned by Oahu Publications, Inc., which also publishes *Midweek*, a free weekly tabloid shopper that is distributed to more than 270,000 households in Hawaii and publishes its own classified ads.

The rate rollback announced by Francis Friday is the second such reduction the *Star Advertiser* has undertaken since the publication boosted ad rates after becoming the only large newspaper in Hawaii in 2010.

The first reduction occurred after the *Star Advertiser* imposed a 200 per cent increase in the prices of legal advertisements - a category of ads separate from foreclosure notices whose costs must be paid by government agencies.

Last year, after protests from state officials, the newspaper agreed to lesser increases of 125 per cent above 2010 prices, with another 50 per cent jump this year.

Much higher rate increases charged to the public for classified and display ads by the *Star Advertiser* remain in effect.

Earlier in this year's legislative session, the newspaper won a temporary reprieve from state plans to allow electronic publication of legal ads.

The state is still developing plans to post those ads on Internet sites, perhaps in conjunction with print publications.

Star Advertiser official **Dave Kennedy** told state Senators this year the newspaper receives nearly \$1 million in annual revenue from legal ads. He called that figure "a very small proportion of our overall revenue."

He declined to discuss with senators the revenues generated by mortgage foreclosure ads.

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In Search of An Audience

Laka, by local artist Henry Ha'o welcomes viewers to <http://menehunerath.com/>

By **J. Arthur Rath III**

Fingers walking over cell phone keypads dramatically changed marketing--attention around the world can be captured in an instant! Can old dogs like me learn new tricks to catch the ride instead of being doomed to a steady slide.

I wanted to find out.

So I arrived at a Smart Business Hawaii breakfast to learn about "Social Networking" (with hardly any bark left within me). My tail was between my legs, cowed by my futile quest for folklore readers.

Once in a while someone would ask me, "What do you do". This led me to believe we were about to have "a conversation." Then instantly they looked at their cell phone screen, an automatic reflex. I'd start to explain my impossible dream. Their fingers were flicking for information and imagery. They were scrolling the Internet for "What's up, what's the buzz," not tuned in to earnest me.

One-time book-page turners have become digital device holders. People talk with their fingers and use short phrases, terse words. "Twitter", a new universal language, limits thoughts to 130 letters, has codes like LOL, encourages symbols, such as & and @, over real words.

At my age, Don Quixote wore rusty knightly armor and jousting with a windmill he believed was a threatening four-armed giant that interrupted his quest. Telephone keypads are changing communications, goblins everywhere are blocking my impossible dream of maybe being enchanting.

"Social Media" speakers at the Smart Business meeting suggested developing a business following with Facebook, Twitter, and even your own website.

Hmm... dare I presume?

Frances Nuar and **Tara Zirker**, with backgrounds in both writing and social media management, were there with business cards reading "socialKINE.com."

"Do you do what the speakers said?", I scribbled on a note, to Nuar, passing it across the table. She nodded her head. She and Tara talked with me after the meeting. Then they put me in a modern era fast lane with a proper name: **MenehuneRATH.com**.

Not willing to relinquish all my old dog tricks from when the USA dominated the world economy, I use "USA" as my acronym for "Unique Sales Appeal". (I remember when American-made products had that.)

Those were Willy Loman's days, personal contacts were important. In the play "Death of a Salesman" Tennessee Williams described who

Loman went to see — prospects, he'd call, call, and call again — to foster relationships. Today's "Facebook" has that sort of repetitive "keep in touch" aura.

"AIDA" is an old marketing trick social network ladies encouraged I continue using. (This is an acronym for "MadMen" marketing tactics you see on that TV show: "Attention, Interest, Desire, Action.")

I tagged on "Conviction" after "Action" to encourage repeat readers. "Customer Satisfaction" means the same thing.

The social networking advisers urged I expand my folklore perspective beyond Hawaii by posting monthly feature articles on Menehune (Hawaii and Pacific) and Fairy Lore — Europe, America, Asia). Artist friends, 'ole-time Hawaii guys, give "kokua".

Can I find an audience through among Facebook Friends? Will Twitter tantalize? Will people read what I write on the MenehuneRATH Website? I wouldn't have the chance to find out if my mind hadn't been stimulated while eating breakfast at Smart Business Hawaii.

I'd have been twiddling my thumbs while everyone else's fingers are walking over ubiquitous telephone keypads.



J. Arthur Rath in the center of SocialKINE marketers, left, **Tara Zirker**; right, **Frances Nuar**.

For 45 years J. Arthur Rath headed The Rath Organization, a national marketing communications agency for 25 years. He taught public relations at Syracuse University's Newhouse School of Public Communications. Member of the Kamehameha Schools Hall of Fame, he returned to Waikiki to write.

Growing Cynicism: Hawaii Lawmakers Can't Be Trusted

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

Despite the campaign rhetoric lawmakers chant over and over during the campaign season that Hawaii voters can trust them as representatives of their constituents, it seems that there is a growing cynicism that lawmakers cannot be trusted.



This cynicism became apparent in a recent hearing at the House Finance Committee on a bill that would have allowed the consolidation of funds raised by various independent "friends of the library" to be handled by a centralized fund located within the library services section of the department of education. It seems that a memorandum of agreement has been under discussion over the past year which allows participants in the consolidated fund

to fundraise on the premises of the public libraries while those who choose not to throw their money into the consolidated fund are not allowed to fundraise on library premises.

This is an affront to those who have been banned from fundraising on public library property, as they believe that they are helping local libraries. However, the reason for their resistance to consolidate their hard earned fund-raising dollars is that they believe that as a special fund it could be the target of a future legislative raid and said as much.

That accusation is truly a sad commentary of how much the public has lost confidence in lawmakers to the extent that they do not trust lawmakers to keep their mitts off special funds. It should also serve as a very scary warning to lawmakers that they have lost the trust of their constituents. While the raids of special funds is the object of this distrust, the other part of the problem is that many of these special funds should have never been established in the first place.

Many of the newly created special funds over the past twenty years were repositories to hide what had been general funds and then designated them for a specific use or purpose. In other cases, fees were created as a ruse to increase the government take from the pocketbooks of unsuspecting taxpayers without calling the new fees taxes. Yet another reason was that many of the programs that have been funded with fees that underwrite these special funds were not of a high enough priority to garner an appropriation of general funds.

An example of the latter effort was an increase in the marriage

license fee to fund domestic violence programs. Somehow lawmakers believe they justified some sort of relationship between being married and domestic violence. Similarly, increases in the state's conveyance tax on all real property transactions went to fund affordable housing and programs of the natural area reserve fund. In the case of this latter program, it is now the possible beneficiary of the proposed single-use checkout bag fee sitting in the legislature.

Because it is the beneficiary of a special fund, the program doesn't get the kind of close scrutiny that programs like social services and education receive because they are financed out of the state general fund. No review has been conducted by the State Auditor to see if the monies in special funds are being used efficiently and wisely.

Thus, there is no question that taxpayers/voters have grown cynical about their lawmakers. When the top priority is how they will spend the money they have followed only by the priority to raise even more money, taxpayers ought to be afraid and hang on with great fervor to their pocketbooks. For example, at a recent hearing on establishing an environmental workforce it was pointed out that a very similar statute was enacted more than a decade ago and had become dormant for the lack of funding. However, the statute remains on the books and only an appropriation was needed to revive it.

Well, once the subject of the appropriation was put on the table, the sharks began to feed, attempting to carve up what would soon be a pot of money that this program or that group could use. Feeding at the trough is a more accurate description of what followed as group after group came to the table declaring that funds were needed to revive what is known as the environmental workforce.

So is there any doubt that the taxpaying public is growing more and more disenchanted with lawmakers who appear only interested in spending more and more public dollars to sate their respective constituencies? At a time when families are finding it even more difficult to survive and are setting priorities for their shrinking pay checks, it is no wonder that they grow even more cynical as lawmakers fail to set priorities for education and social services with their tax dollars.

More at the Tax Foundation of Hawaii website:
<http://www.tfhawaii.org>



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For more information on how you can protect your business, visit hawaiiinsuranceconsultants.com.

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FARMERS

Homelessness in West Oahu

By **Tom Berg**, Honolulu City Council Member

On the news of late is the eviction of the last "major" homeless encampment on city property.

I went out to Keaau Beach Park and surrounding coastline on April 17 and spent a few hours talking to some of the folks that were still packing up their belongings and contemplating where they will go to call home.

Each person I talked to was looking for work and wanted a job. Some admitted they had no skills and lacked an education but would gladly work on a farm tending to crops, or offer their labor in any way they could to get out of the bushes.

There was trash all over the place.

Many seeking shelter relocated to the Waianae Boat Harbor area and some went up into the hills out of the cleanup zone.

I will continue to fight for the right of property owners on agricultural lots that are away from residential housing areas to station retrofitted shipping containers, pre-fabricated and modular homes on their property. Unfortunately, government is in the way and blocking my initiative that would let the private sector have a crack at this problem and do what government has been unable to accomplish for decades.

For the folks out in the bushes that I met today, not only is purchasing a home out of reach, but so are the rents. With my shipping container solution, rent would be less than a car payment.

JRI Legislation Continued from Page 7.

from ideas based on rational, optimal behavior in a planned and systematically organized environment.

The danger in relying on assumptions made by the evidence-based approach is that human beings do not always act rationally or optimally. This is demonstrated by the very fact that offenders ended up in prison because they failed to act rationally when committing the crime that got them incarcerated in the first place.

We have laws prohibiting certain kinds of behavior and prescribing certain punishments for violating the law. Yet, the prospect of punishment did not lead any of these inmates to behave rationally or optimally – i.e. refrain from committing any crime in order to avoid punishment.

The sheer number of prisoners who will be released primarily on Oahu is frightening. At what rate were inmates released from mainland prisons? We should not assume that Justice Reinvestment will be as effective in Hawaii simply because of claims that it has been effective on the mainland.

This bill attempts to make drastic changes all at once. Is this a case of too much too soon? Before we put all our faith into this approach and enact wholesale change, please consider a more cautious and prudent approach by implementing a few of the ideas to see how they work out in Hawaii's criminal justice system. For example, should we not start early release with low-risk Class C felons – in other words, lower-level felons? We should spell out and limit early release only to Class C felons who committed property crimes as opposed to violent acts. The Legislature can then come back to expand the program, after it has had time to observe the results, and determine the degree its implementation affects public safety.

Despite my feelings on the majority of the bill, I do believe that restitution reform is long overdue in our State. I agree with the following suggestions proposed by the Department of the Prosecuting Attorney for the City and County of Honolulu. These were stated in their letter dated March 21, 2012 to the House Judiciary Committee. "We agree that additional measures are needed to facilitate payment of restitution to crime victims; however, Section 10 of this bill would do very little to improve things, as the vast majority of offenders owing restitution are not in prison, and other sections of this bill propose to release even more people from our prisons. To effectively facilitate restitution payments, the Department suggests incorporating language from H.B. 2394."

Editor's Note: SB 2776 passed out of the legislature with a conference draft (CD1) on May 3. It is now pending a decision from the Governor.

Hawaii is One of the Worst

The Small Business & Entrepreneurship, in its report Council Business Tax Index 2012: Best to Worst State Tax Systems for Entrepreneurship and Small Business, ranked Hawaii as 43rd best of 50 states and the District of Columbia. Some 18 categories of tax measures were included.

Hawaii was included in the bottom 15 states, which are listed as 37) Nebraska, 38) North Carolina, 39) Illinois, 40) Oregon, 41) Rhode Island, 42) Connecticut, 43) Hawaii, 44) Vermont, 45) California, 46) Maine, 47) Iowa, 48) New York, 49) New Jersey, 50) Minnesota, and 51) District of Columbia.

The 15 Best State Tax Systems are: 1) South Dakota, 2) Texas, 3) Nevada, 4) Wyoming, 5) Washington, 6) Florida, 7) Alaska, 8) Alabama, 9) Ohio, 10) Colorado, 11) Mississippi, 12) Michigan, 13) South Carolina, 14) Tennessee, and 15) Missouri.

Death & Taxes: Another 50-state ranking has rated Hawaii among the worst in the nation for its hostile business and tax climate.

These low rankings have been with the state for many years now.



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April's SBH Networking Breakfast featured David Carey, CEO of Outrigger Hotels. He spoke on governmental regulations and their impact on business and the tourism industry.

Aiona Back in Private Practice

Former Lt. Governor James "Duke" Aiona, Jr. announced he will reopen his private mediation, arbitration and consulting practice, JRA Inc., in May.

Aiona will focus on family law and serve on a distinguished panel of neutrals for Dispute Prevention & Resolution, Inc. (DPR), a leading provider of dispute resolution services.

"I'm excited about this new opportunity to bring people together," said Aiona, former judge for district family court and the First Circuit Court. "I've been blessed to serve the people of Hawaii in different ways, and this is another challenge I'm looking forward to."

Aiona has served as executive vice president of development and recruitment at Saint Louis School since January 2011. He served as Lt. Governor under Linda Lingle from 2002 to 2010.



Disney cruise ship "Wonder" made its first ever voyage to Hawaii. Disney may be looking into adding new cruises to the islands which would benefit tourism, the business community and economy of the state.

Tail Wagging the Dog Continued from Page 4.

estimates have escalated from the original \$5 billion plus to over \$8 billion. Numerous delays, construction changes and cost overruns have caused the estimate to soar.

Our beautiful island is scarred by ugly concrete columns which support wide sections of guideway superstructure as construction continues. Remember the Boston "Big Dig" – the cost estimate went from \$2.6 billion to a final cost of over \$14 billion.

The city debt affordability guidelines have again been suspended and the Mayor has asked the State Legislature for yet another one-half percent increase in the excise tax to be marked for the rail project. Your property taxes have greatly increased in order to "fund vital services"; meaning to make up for funds funneled into rail. Support for the project has plummeted but the work goes on.

Yes, we do need to address transportation alternatives, and there are many, for our friends and neighbors who live in West Oahu, but not this rail system. Sound pessimistic? Yes, but think about it.
