

To See or Not to See: Public Notice of Legal Ads

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FOREWORD

This report is prepared in response to Senate Resolution No. 3 (1995) requesting a study to evaluate the efficiency of using newspapers of general circulation as the sole means of publishing public notices required by law.

The Bureau thanks the Hawaii Newspaper Agency, including specifically Howard Griffin, Senior Vice President for Marketing, Margie Memminger, Sales Representative in Legal Advertising, and Dale Morikawa, Sales Representative in Retail Advertising for their patient explanation of advertising methods, pricing, and newspaper terminology. The Bureau also thanks Cathleen Chang, summer student intern who summarized each entry in the *Hawaii Revised Statutes* that provided for publication of public notices in newspapers which is reported as chapter 2. In addition, survey pretest volunteers: Les Tanaka, Warren Iwasa, and Wendale Imamura provided invaluable advice by critically reviewing the questions in the survey form before the forms were mailed to the public agency respondents. Finally, we express our sincere appreciation to all state and county agency employees who took the time to respond to the Bureau's survey.

Wendell K. Kimura
Acting Director

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Chapter 1

INTRODUCTION

Senate Resolution No. 3 (1995), a copy of which is attached as Appendix A, requested the Legislative Reference Bureau to evaluate the efficiency of using newspapers of general circulation as the sole means of publishing public notices required by law. The focus of this report is to determine the cost of publishing government notices in newspapers, and to examine other means of providing public notice.

What are Public Notices and Why are They Necessary?

Notice has been defined as "information concerning a fact, actually communicated to a person by an authorized person, or actually derived by him from a proper source".¹

Notice is one of the principal components which distinguishes the actions of the government in a democratic society. Through public notices, the public is notified of public hearings and other actions contemplated by a governmental body. "The very purpose of requiring the publication of official notices is to inform the people concerning proceedings of a public nature for their general welfare."²

There are many reasons for giving notice. It may be required by contract, by rules of court, or by statute. In this study, the focus shall be on legal notices which are required by statute and paid for with public funds. It therefore does not include legal notices required by statute but paid for by private funds by an individual or corporation, such as a bank, private firm, or an applicant for some kind of official act, like a name change. The legal notices with which this study is concerned are notices of public hearings as required by the Hawaii Administrative Procedure Act (HAPA), notices required by the State Procurement Code, and many other mandatory notices that state and county agencies are required to publish in order to notify residents or citizens of certain types of government action which could affect property rights, benefits, or obligations. Government agencies also publish notices of purely informational nature that are not required by statute, such as notices to motorists of current roadwork or lane closures. Publication of these notices is purely discretionary, and these types of notices are therefore not included as the primary focus in this study.

It is not always easy to determine whether an ad was paid for by an applicant or a government agency simply by reading it, because the name of a government agency might appear in an ad paid for by the applicant or other private person. This is true, for example, of a notice for a liquor license, which is placed by a liquor commission but paid for from fees submitted by the applicant with the application. Generalizations and categorizations are impossible, given the variety of areas in which the government is involved. Also not included in this study are notices required by the federal government as part of the receipt of federal grants, because these notices are paid for out of those federal funds.

1. Steven H. Gifis, Law Dictionary, Barron's Educational Series, Inc. (Woodbury, NY: 1975) p. 139.

2. Garcia v. Tully, 72 Ill. 2d 1, 17 Ill Dec 820, 377 NE2d 10 (1978).

Newspapers and the Concept of Legal Notice

Newspapers have traditionally been the medium through which the public received notice because wide publicity is a primary goal of publication of notices, to "assure that the published material will come to the attention of a substantial number of persons in the area affected."³ In general, a newspaper is deemed a newspaper of general circulation where it contains news of general interest to people in the area and where the breadth of its advertisers is indicative of the diversity of its subscribers. Circulation figures for various newspapers published in Hawaii are included in Exhibit 1-A at the end of this chapter.

A legal notice is different from the classified advertisements and display ads. Everyone is familiar with the classifieds, where real property for sale can be found listed under different geographic areas, or automobiles, furniture, and the like are offered for sale. The classified ads are located at the end of the news section. A display ad is an ad that is displayed in the run of the paper, amidst news articles and often with a border around it which sets it off visually from the rest of the news items. In Hawaii newspapers, legal ads containing legal notices are usually located on the pages immediately preceding the classified ad section. Legal ads are not arranged in any particular subject order as are the classifieds. The reader is required to visually scan the page for the "notice to contractors", or "notice of public hearing" in which the reader might be interested.

Another type of advertisement is described as the tabloid, insert, or supplement. An example of this kind of insert is the University of Hawaii schedule of summer courses, the television programming insert found in the Sunday paper, and certain advertisements from commercial establishments. Some government offices have issued inserts in the newspaper for a single publication of several notices of public hearings, a publication of an annual report, or other lengthy report. For purposes of pricing, a tabloid uses display ad rates.

Organization of this Report

Chapter 1 introduces the report and the philosophy behind providing legal notice.

Chapter 2 contains brief descriptions of each reference in the *Hawaii Revised Statutes* requiring the publication of notices in newspapers. The *Hawaii Revised Statutes* were searched electronically for statutorily mandated requirements for publication of notices in newspapers. As explained earlier, in some instances publications in newspapers are paid for by an applicant, not by a public agency. These instances are identified in the Bureau's descriptions. This chapter should give the reader an indication of the wide extent of statutory mandates for publication of legal notices in newspapers. This chapter also does not begin to cover all of the instances where notice is published as a public service by a governmental agency. These notices shall be distinguished in this report as public notices, because there is no legal requirement for the publication of these notices in newspapers. While county ordinances may also require publication of notices in newspapers, no attempt has been made in this report to describe these ordinances.

Chapter 3 examines the Bureau's survey results which sought to identify the cost to the State and to the counties to publish public notices in the newspapers.

3. 58 AmJur 2nd Newspapers, p. 40.

INTRODUCTION

Chapter 4 examines other states' statutory provisions regarding publication of legal notices. For example, some states statutorily define terms such as "legal notice", or "newspaper". Permission to publish via radio and television to supplement newspaper publication of legal notices exist in statutes of Oregon and Washington. Another way of notifying the public of government actions is through the publication of state registers. Chapter 4 also contains a review of other states' use of a state register to publish notices.

Chapter 5 examines different approaches to reducing the cost of advertising legal notices through newspapers. Proposed techniques to reduce publishing costs begins with the assumption that regardless of the total cost to the State, newspaper publication costs can be reduced by making certain policy choices in the area of the Hawaii Administrative Procedure Act hearing notices, or modifying the current newspaper publication methods, or publishing a state register.

Chapter 6 summarizes findings and recommendations.

Exhibit 1-A

**AVERAGE PAID CIRCULATION OF DAILY AND SUNDAY
ENGLISH-LANGUAGE NEWSPAPERS;
1990-91 TO 1993-94**

[Averages for 12-month periods ended in March. Foreign-language daily newspapers, not included in this table, are the *Hawaii Houchi*, Japanese and English; *The Korea Times* and *Han Kook Ilbo* and *Korea Central Daily*, Korean; and *United Chinese Press*, Chinese]

Newspaper	1990-91	1991-92	1992-93	1993-94
Daily:				
Honolulu Advertiser <u>1/</u>	101,220	100,804	104,665	104,461
Honolulu Star-Bulletin <u>2/</u>	89,704	87,809	87,052	82,489
Hawaii Tribune-Herald (Hilo) <u>3/</u>	20,486	20,193	20,058	19,688
West Hawaii Today (Kailua-Kona) <u>4/</u>	11,733	11,698	11,860	11,667
Maui News (Wailuku) <u>3/</u>	18,170	18,494	18,968	19,222
Garden Island (Lihue) <u>3/</u>	8,246	7,478	7,558	7,679
Sunday morning:				
Honolulu Advertiser <u>5/</u>	200,199	198,676	197,597	195,577
Hawaii Tribune-Herald (Hilo)	23,879	23,999	24,193	23,088
West Hawaii Today (Kailua-Kona)	12,684	12,971	13,434	13,455
Maui News (Wailuku)	19,939	20,822	21,827	22,246
Garden Island (Lihue)	8,552	8,058	8,075	8,100

1/ Mornings, Monday through Saturday.

2/ Afternoons, Monday through Saturday.

3/ Afternoons, Monday through Friday.

4/ Mornings, Monday through Friday.

5/ Data through February 27, 1993 are for the *Sunday Star-Bulletin and Advertiser*; beginning March 7, 1993, for the *Sunday Honolulu Advertiser*.

Source: Audit Bureau of Circulations data provided to DBEDT by newspaper publishers.

Source: State of Hawaii Data Book 1993-94, update volume 2, Table 16-24, 1995.

Chapter 2

HAWAII'S STATUTORY PROVISIONS

This chapter summarizes each section in the *Hawaii Revised Statutes (HRS)* that refers to the publication of legal notices in newspapers. (See Appendix B for a listing of the *HRS* sections retrieved by this search). Each provision is digested here for the benefit of the reader including the *HRS* citation, the name of the department with responsibility for giving notice, and an indication of the reason for the notice (e.g., to call a public hearing, give public information, to sell something, whether property, bonds, or the like; or to approve or disapprove an application for something). *HRS* sections also provide that the notice be given sufficiently in advance to interested persons. This is indicated by the number of days before the event the notice must be published, and so forth.

Readers are advised to read the *HRS* sections cited herein in their entirety if they desire to ascertain the underlying substantive law. These summaries primarily describe only the portion of the statute dealing with notices published in a newspaper. They are not intended to serve as comprehensive analyses of the particular sections.

Anyone who carefully reads legal advertisements in Hawaii will notice that many contain the name of a government official and department. However, not all of these ads are of the type being studied for this report. It is not always apparent from the appearance of a legal notice who has paid for that ad. For example, some notices to motorists detailing the closure of a street for repairs or detours of traffic and listing a Department of Transportation employee as the contact person, may be required by a state contract with a private contractor and may have been paid for by the contractor (albeit ultimately by public funds which pay the contractor) rather than the Department of Transportation. Some examples of legal ads which appear to be government-sponsored ads but are not, include notices of liquor license application hearings and notices of name change, both of which are paid for by the applicants.

1995 Acts dealing with the same keywords, notice and newspaper, are included at the end of this section as an addendum.

Rules That Require Public Notices in Newspapers

The reader should be aware that in addition to statutes requiring the publication of notices in newspapers, publication of a notice may also be required by administrative agency rules. One example (reprinted here as Exhibit 2-A) is required by section 3-122-24, *Hawaii Administrative Rules* (Department of Accounting and General Services), one of the many agency rules that implement the State Procurement Code (chapter 103D, *HRS*). The text of the State's administrative rules cannot be searched electronically and because it is beyond the scope of this study, this report does not address those instances where the requirement to publish a legal notice is imbedded in the administrative rules of state agencies.

Exhibit 2-A

§3-122-23 Bidding time. (a) A minimum of ten calendar days shall be provided between date of the last legal advertisement of the solicitation and the time and date set for receipt of offers.

(b) Bidders shall have a reasonable time to prepare their offers.
[Eff] (Auth: HRS §103D-302) (Imp: HRS §103D-302)

§3-122-24 Public notice. (a) Public notice of the solicitation shall be made for the purpose of securing competition.

(b) The public notice of the solicitation shall include the following information:

- (1) A brief description of the good, service, or construction desired;
- (2) Where and when the solicitation will be available;
- (3) How long the solicitation will be available, i.e., the deadline for the responses to the solicitation;
- (4) Other appropriate information, such as the payment of a fee or a deposit to receive solicitation and related documents; and
- (5) For a multi-step sealed bid, a description of each step to be used in soliciting, evaluating, and selecting unpriced offers.

(c) The public notice of availability of the solicitation shall be publicized as follows:

- (1) At a minimum, a one-time legal advertisement published either in a newspaper of general circulation within the State or in a newspaper of local circulation in the county, if available, pertinent to the procurement;
- (2) Optionally, and in addition to (1) above, the following may be utilized:
 - (A) Notice by mail to persons on any applicable bidders mailing list, if any;
 - (B) Publication by any public or private telecommunication information network; or
 - (C) Any other method of publication the procurement officer deems effective.

(d) A copy of the solicitation shall be made available for public inspection at the office of the procurement officer issuing the solicitation. [Eff] (Auth: HRS §103D-302) (Imp: HRS §103D-302)

Source: Sections 3-122-23 and 3-122-24, Hawaii Administrative Rules (Department of Accounting and General Services).

HRS SECTIONS REQUIRING LEGAL NOTICE IN NEWSPAPERS

Hawaii Constitution
Article XXII
Section 3

AMENDMENTS PROPOSED BY LEGISLATURE

The proposed amendment adopted by the legislature in the required manner shall be published once in each of four successive weeks in at least 1 newspaper of general circulation in each senatorial district. Published within the 2 months period immediately preceding the next general election.

HAWAIIAN HOMES COMMISSION ACT (HHCA)

HHCA §209

SUCCESSORS TO LESSEES

Provides for the succession of lessee's interest in Hawaiian Homes lands. Allows relatives who meet certain criteria to succeed in the interest of the decedent lessee's interest. Provides for the appraisal of improvements on the lessee's land. Provides that if the previous lessee has abandoned the land and at least two attempts by certified mail have been made to contact the previous lessee, the department shall give notice by:

- Publishing at least once in each of four successive weeks in a newspaper of general circulation in the State.

HHCA §506

AWARD OF HOMESTEAD GENERAL LEASES; NOTIFICATION OF APPLICANTS ON HOMESTEAD WAITING LISTS; DISPOSITION BY RENT

Provides for the awarding and offering of homestead general leases, notifying of applicants on waiting lists and the temporary disposition of available units when all interested and qualified native Hawaiians have been awarded lots.

- Notification of waiting list applicants by publishing public notice in a newspaper of general circulation in the county.

CHAPTER 6E HISTORIC PRESERVATION

HRS §6E-41
Public pays
(see §110-3)

CEMETERIES; REMOVAL OR REDESIGNATION

A person removing or redesignating must comply with certain requirements, among other requirements:

- Publication in a newspaper of general circulation inquiring of any persons who have information regarding the cemetery or persons buried in it.

CHAPTER 10 OFFICE OF HAWAIIAN AFFAIRS

HRS §10-25
OHA

REVENUE BONDS

Issuance of revenue bonds. Able to sell bonds at private sale, and also allowed to be sold to the public after:

- Notice at least once;
- Publication five days prior to the date of the sale;

- Made in a newspaper published and general circulation in the State; and
- Publication in a financial newspaper published in either cities of New York, Chicago, or San Francisco.

CHAPTER 11 ELECTIONS, GENERALLY

HRS §11-41
*Chief Election
Officer*
(see §110-3)

BOARD OF REGISTRATION, APPOINTMENT, TENURE

Creation of four boards; no board entirely of one party shall sit in their respective counties on election day and other times as the clerk determines. Notices of the sitting of boards shall be published in newspapers of general circulation in the respective districts or counties.

HRS §11-65
*Chief Election
Officer*

DETERMINATION OF PARTY DISQUALIFICATION; NOTICE OF DISQUALIFICATION

The chief election officer shall determine 120 days after a general election which parties were qualified to participate in the last election, but are disqualified to participate in the coming election. This notice in addition to notice by certified or registered mail shall also be published in a newspaper of general circulation. If the officer of that party seeks a hearing on the notice of intention to disqualify, the officer of the party shall file an affidavit outlining reasons why the party should not be disqualified. The chief election officer in addition to other requirements:

- Shall publish a notice of the hearing;
- In a newspaper of general circulation;
- Not later than five days prior to the day of the hearing.

HRS §11-93.3
*Chief Election
Officer*

CONSOLIDATED PRECINCTS: NATURAL DISASTERS; SPECIAL ELECTIONS

Allows for the consolidation of election precincts when a natural disaster makes a precinct inaccessible. Also allows for the consolidation of election precincts in a special, special primary, or special general election when numbers of candidates or issues does not require the full number of precincts. Public notices of election precincts and polling places shall be given by the chief election officer or the county clerk no later than 4:30 on the 10th day prior to the election.

HRS §11-192
*Campaign
Spending
Commission*

ELECTIONS

The Commission shall consist of five members of the general public, appointed by the governor from a list of ten nominees submitted by the judicial council. The judicial council may solicit applications through community organizations and advertisements in any newspaper of general circulation.

HRS §11-193
*Campaign
Spending
Commission*

The commission shall publish in the newspaper the names of all candidates, committees, and parties who have failed to file a report or to correct their deficiency within the time allowed by the commissioner.

HRS §11-227
*Chief Election
Officer*

PUBLIC NOTICES

(a) 45 days before each primary, special primary, special or general election the commission may:

- Publish public notices in newspaper as well as other media re various violations by candidates.

CHAPTER 14 PRESIDENTIAL ELECTIONS

HRS §14-22
*Chief Election
Officer*

**CONTESTED NOMINATIONS OF PRESIDENTIAL ELECTORS
AND ALTERNATES**

Notice of a hearing to determine the set of electors and alternatives that were lawfully chosen shall be published at least once in a newspaper of general circulation.

CHAPTER 25 REAPPORTIONMENT

HRS §25-2
*Reapportionment
Commission*

DUTIES

(a) Legislative Reapportionment.

A commission shall publish a reapportionment plan in a newspaper of general circulation in each basic island unit. At least one public hearing shall be held on each basic island unit. Twenty days' notice shall be given by noting a statement of the substance of the plan, the date, time and place of the hearing and publishing the notice at least once in a newspaper of general circulation.

After the last public hearing but before hundred fifty days from the date on which all members of the commission are certified, corrections or modifications shall be made. After modifications a final reapportionment plan shall be filed with the chief election officer. Fourteen days after filing the final reapportionment plan shall be published in a newspaper of general circulation in the State. Upon publication the plan shall be effective as of the date of filing and shall govern the election of members of the next five succeeding legislatures.

(b) Congressional reapportionment.

A commission when required by law or the Constitution shall redraw congressional lines according to the requirements set out by this statute. After the commission creates a reapportionment plan and not longer than 100 days from the certification of all members. Not more than eighty days from the date which all members are certified, the commission shall publish in a newspaper of general circulation in the State a congressional reapportionment plan:

- At least one public hearing shall be held in each basic island unit.
- After a final congressional reapportionment plan is designed, the chief election officer shall publish in a newspaper of general circulation in the State.

CHAPTER 37 BUDGET

HRS §37-94

B&F

DIRECTOR OF FINANCE; DUTIES

The director of finance will determine a preliminary growth and expenditure ceiling and a final estimate of the ceiling. When completed, notice will be given to the governor, chief justice and the legislature. Public notice shall be given twice in successive weeks by publication in a newspaper of general circulation in the State.

CHAPTER 38 DEPOSITS OF PUBLIC FUNDS

HRS §38-3

B&F

SECURITIES FOR PROTECTION OF FUNDS DEPOSITED

For the protection of funds, certain securities shall be deposited with the director of finance or with a continental United States bank or with a financial institution with trust powers authorized to do business in the State.

If the depository fails to pay the deposits, the director shall convert the securities to cash; provided that no securities shall be sold except at public auction after notification by publication:

- In a newspaper of general circulation in the State.
- After at least 10 days' notice.

CHAPTER 39 STATE BONDS

HRS §39-5

B&F

SALE OF BONDS

The director of finance arranges for the sale of each issue of bonds. The sale of the bonds shall be at competitive prices. The bonds offered at competitive sale shall be sold only after:

- Published notice of sale advising prospective purchasers of the proposed sale;
- At least once;
- At least five days prior to the date of the sale;
- In a newspaper published and of general circulation in the State; and
- In a financial newspaper published in any of the cities of New York, Chicago, or San Francisco;
- The notice of sale may omit the date and time of the sale, but later the date and time shall be published in the same newspapers in which the notices of sale were published. Also allows for this information to be transmitted by electronic communication. Whichever form the information shall be transmitted within twenty-four hours prior to the sale.

HRS §39-55

B&F

SALE OF REVENUE BONDS

The director of finance may make arrangements necessary for the sale of each issue of revenue bonds. The sale of the revenue bonds at competitive sale shall be sold only after published notice of sale advising prospective purchasers of the proposed sale. The notice of sale:

- Published at least once;

- Five days prior to the date of the sale;
- In a newspaper of general circulation in the State; and
- In a financial newspaper published in any of the cities of New York, Chicago, or San Francisco;
- The notice of sale may omit the date and time of the sale, but later the date and time shall be published in the same newspapers in which the notices of sale were published. Also allows for this information to be transmitted by electronic communication. Whichever form the information shall be transmitted within twenty-four hours prior to the sale.

CHAPTER 40 AUDIT AND ACCOUNTING

HRS §40-4 *Comptroller*

PUBLICATION OF STATEMENTS

Requires comptroller to submit to the governor and publish in a newspaper of general circulation in the State following the end of the fiscal year, a statement of income and expenditure by funds including among other things: statement of income and expenditure by funds, principal sources of revenue, function or purpose for which expenditures were made, etc.

HRS §40-65 *B&F*

NOTICE OF PAYMENT OF WARRANT NOTES

When warrant notes are able to be paid the director of finance shall give notice for one week in one or more daily newspapers in Honolulu. The notices should state the warrant note numbers that are payable thus ceasing the interest upon the notes 10 days after first publication.

CHAPTER 46 GENERAL PROVISIONS (COUNTY ORGANIZATION AND ADMINISTRATION)

HRS §46-16.7 *Counties*

COUNTY GENERAL EXCISE AND USE TAX SURCHARGE

Each county, except the county of Kalawao, may establish a general excise and use surcharge of one-half percent by ordinance. The ordinance shall be established by October 1, 1992 and shall stay in effect for ten years (1/1/93-12/31/2002). The proposed ordinance shall not be adopted until the county has conducted a public hearing.

- Notice shall be published in a newspaper of general circulation;
- Within a period of thirty days immediately preceding the date of the hearing.

After adoption within ten days of the hearing the county shall notify the director of taxation, who shall administer the tax. The use of the tax surcharges are set out in the statute.

HRS §46-145 *Counties*

REFUND OF IMPACT FEES

For the termination of impact fees the county should conduct refunds according to the requirements set out in this statute including among other things that the county shall publish at least two times in a newspaper of general circulation a notice of termination and availability of refunds.

CHAPTER 47 BONDS: COUNTY AND MUNICIPAL

HRS §47-8

*Director of
Finance*

SALE OF BONDS

The director of finance may make arrangements for the sale of each issue of bonds. Some duties are the arranging for the printing of bonds, the official statement required for the issuance and sale of bonds and retaining financial, accounting, and legal consultants. Director of finance may be authorized to offer the bonds at competitive sale to specified groups. The notice of the competitive sale shall be:

- Published at least once;
- At least five days prior to the date of the sale;
- In a newspaper circulating in the county; and
- In a financial newspaper published in any of the cities of New York, Chicago or San Francisco;
- The notice of sale shall comply with the section if it merely advises prospective purchasers of the sale and makes reference to a detailed notice of the sale which is available to prospective purchasers;
- The notice of sale may omit the date and time of the sale, but later the date and time shall be published in the same newspapers in which the notices of sale were published. Also allows for this information to be transmitted by electronic communication. The information shall be transmitted within forty-eight hours prior to the sale.

CHAPTER 47C INDEBTEDNESS OF THE COUNTIES, EXCLUSION FROM THE FUNDED DEBT, AND CERTIFICATION THEREOF

HRS §47C-6

Counties

PUBLIC HEARING; DECLARATORY JUDGEMENT

A public hearing may be held by the county council on any factual matters disagreed on by the corporation counsel and the chairperson of the finance committee. This hearing shall be held at the regular meeting of the council with notice of such hearing being published at least once and at least five days in advance of the meeting date.

CHAPTER 49 BONDS: THE REVENUE BOND ACT OF 1935

HRS §49-5

*Director of
Finance*

SALE OF REVENUE BONDS

The director of finance may make arrangements for the sale of revenue bonds, including duties such as printing bonds, the official statement needed for the sale of the revenue bonds and the retention of financial, accounting, and legal consultants. Competitive sale of the revenue bonds may be accomplished by publication of the notice of sale. The notice of sale shall be:

- Published at least once;
- At least five days prior to the date of the sale;
- In a newspaper circulating in the county;
- In a financial newspaper published in any of the cities of New York, Chicago, or San Francisco;

- The notice of sale shall comply with the section if it merely advises prospective purchasers of the sale and makes reference to a detailed notice of the sale which is available to prospective purchasers; and
- The notice of sale may omit the date and time of the sale, but later the date and time shall be published in the same newspapers in which the notices of sale were published. Also allows for this information to be transmitted by electronic communication. The information shall be transmitted within forty-eight hours prior to the sale.

CHAPTER 52D POLICE DEPARTMENTS

HRS §52D-10
Chief of Police
(could be paid
from unclaimed
moneys)

DISPOSITION OF FOUND, STOLEN, OR UNCLAIMED PROPERTY

Twice a year in January and July, the chief of police shall give the county director of finance a sworn statement listing all moneys (except money found), goods, wares, and merchandise in the chief's custody which had not been claimed for 90 days or more. At least annually public notice shall be given once a week for four successive weeks in a newspaper of general circulation in the county (may also give notice by posting in conspicuous places) that the listed merchandise will be sold at public auction. Immediately after the sale the chief shall pay the director of finance all unclaimed moneys and moneys received from the auction.

CHAPTER 53 URBAN RENEWAL LAW

HRS §53-1
County
Redevelopment
Agency

DEFINITIONS

Terms in Part I, part II and part III (unless specifically indicated) shall have these meanings. "Published notice" means a notice stating the purpose, time and place of a hearing/meeting published at least once (unless a greater number of publications is required) in a newspaper of general circulation in the county where the hearing/meeting will be held or where the redevelopment project will be situated. The publication must be made at least three days before the date of the hearing/meeting.

HRS §53-16
County

BONDS OF AGENCY*

A redevelopment agency may issue bonds from time to time for any of its corporate purposes. The bonds shall be sold at public sale after a notice is published:

- Once at least ten days prior to the sale;
- In a newspaper having a general circulation in the county and in such other medium of publication as the agency may determine.

HRS §53-60
Counties

ORDINANCE RELATING TO REPAIR, CLOSING, AND DEMOLITION OF DWELLING UNFIT FOR HUMAN

HABITATION*

Whenever any county finds county dwellings which are unfit for human habitation, the county is given the power to require repairs. Whenever a petition is filed by at least five residents of the county charging the unfit dwelling, the officer shall serve upon the owner a complaint. The service of the complaint shall be done personally or by registered mail. If the person's whereabouts are unknown, service may be by publication:

- Once each week for two consecutive weeks;
- In a newspaper printed and published in the county (in the absence of a county newspaper, one printed and published in the State and circulated in the county is sufficient).

CHAPTER 54 WATER SYSTEMS

HRS §54-26

Board of Water Supply

RATES

Before fixing the water rates the board of water supply must hold a public hearing. The notice of this hearing shall contain the proposed rate changes, time and place of the meeting. This notice shall be published no later than twenty days before the date of the hearing in a newspaper of general circulation (one publication).

HRS §54-63

HI County Bd of Water Supply

RATES

Board of water supply may establish variable rates in the various districts of the county of Hawaii, or among the areas served by individual water systems. The rates and charges shall be fixed or adjusted only after holding a public hearing. The notice of the public hearing shall be published in a newspaper of general circulation (one publication). The time within which the notice shall be published shall be computed by including the first day of the publication and excluding the last day.

CHAPTER 77 COMPENSATION LAW

HRS §77-4

ADOPTION OF COMPENSATION PLAN*

All directors (director of human resources development in the case of the State, the administrative director of the courts for judiciary, and the director of civil service for the counties) shall meet biennially in joint conference to review the condition of the compensation plan.

An appeals board shall be created composed of one civil service commission member from each jurisdiction appointed by the governor.

The appeals board shall schedule hearings for pricing appeals from affected persons.

- Notice of time and place of such appeal hearings shall be published in the jurisdiction in a newspaper of general circulation at least ten days prior to such hearings.

CHAPTER 78 GENERAL PROVISIONS ON PUBLIC SERVICE

HRS §78-1
All Depts

CITIZENSHIP AND RESIDENCE OF GOVERNMENT OFFICIALS AND EMPLOYEES

Provides that all elective officers in the state government be citizens of the United States and residents of the State for at least three years prior to taking office. It also states that all appointed officers to state offices (department heads, first assistants, first deputies, second assistants or second deputies) shall be citizens and residents of the State for at least one year prior to taking office.

A person not meeting these qualifications may be employed in a job which is essential to the public interest if no competent person (fulfilling the above qualifications) applies within forty-five days of the first publication of advertisement of the position or the notice of examination. The advertisement shall be published:

- More than once, not more often than once a week;
- In a newspaper of general circulation in the State.

CHAPTER 84 STANDARDS OF CONDUCT

HRS §84-31
Ethics Commission

DUTIES OF COMMISSION; COMPLAINT, HEARING, DETERMINATION

Among other duties of the ethics commission, they may investigate, after complying with this section charges against an alleged violator. This investigation shall be confidential, but when the advisory opinion indicates a probable violation and the person charged fails to comply with the informal opinion or a majority of members determine that there is probable cause that a violation occurred, a copy of the charge shall be personally served upon the violator. If after due diligence service cannot be done, service by publication may be ordered by the circuit court of the circuit wherein the alleged violator last resided. Service by publication shall be once a week for four successive weeks in a newspaper of general circulation in the circuit of the alleged violator's last known state address. The alleged violator shall have twenty days after service to respond in writing to the charge.

CHAPTER 88 PENSION AND RETIREMENT SYSTEMS

HRS §88-171

PUBLIC HEARINGS; NOTICE

There shall be in every county a police officers, firefighters and bandsmen pension system which shall be governed and managed by a board of trustees. (§88-153)

All rulings by the board of trustees as to the application for pension or revocation of pensions shall be made only after a public hearing. The notice for the hearing shall be by advertisement at least once in a newspaper made ten days before the date of the hearing. Actual notice of the hearing shall be given to the person concerned stating that the person shall have

the right to be present in person or by a representative and to be represented by counsel.

CHAPTER 89 COLLECTIVE BARGAINING IN PUBLIC EMPLOYMENT

HRS §89-12

STRIKES, RIGHTS AND PROHIBITIONS

If a strike is about to occur or in progress, the public employer may petition the Hawaii labor relations board to determine if there is imminent or present danger to the health or safety of the public. If the board finds danger then the board can establish requirements such as designation of essential positions and anything else that is necessary to remove the danger. The public employer in giving notice to an essential employee shall either deliver a copy to the worker or mail a copy by registered or certified mail. In the event that these two methods are unable to be completed or the strike is in progress, the employer shall publish at least once a day for three consecutive days, a notice in both of the newspapers having the largest general circulation in the State. After final publication, it is presumed that the essential employee has received such notice.

CHAPTER 91 ADMINISTRATIVE PROCEDURE

HRS §91-3

All Depts

PROCEDURE FOR ADOPTION, AMENDMENT OR REPEAL OF RULES

Before the adoption, amendment or repeal of any rule authorized by law, the adopting agency shall:

- Give at least 30 days' notice for a public hearing which should include either a statement of the proposed change or a general description of subjects involved and purpose to be achieved by change;
- Statement saying that a copy of the change will be mailed to any interested person at no charge;
- Date, time, and place of the public hearing.

If an agency finds that imminent danger to the public requires action on less than thirty days' notice, it shall state reasons for faster action and it may proceed without prior notice or hearing by adopting an emergency rule to be in effect not longer than 120 days without renewal.

Provides that no adoption, amendment, or repeal will be invalidated solely on the basis of inadvertent failure to mail requested copies.

HRS §91-9.5

All Depts

NOTIFICATION OF HEARING; SERVICE

Unless otherwise provided, at least fifteen days before the hearing a written notice of the hearing either by registered or certified mail with return receipt shall be given. If service is unable to be completed in these manners, the notice of hearing may be given by publication:

- At least once;
- In each of two successive weeks;

- In a newspaper of general circulation;
- Last notice shall appear at least 15 days prior to the hearing.

CHAPTER 92 PUBLIC AGENCY MEETING AND RECORDS

HRS §92-41

All Depts

PUBLICATION OF LEGAL NOTICES

All governmental agencies scheduling a public hearing shall publish:

- A notice in a newspaper which is printed and issued at least twice weekly in the county affected by the proposed action;
- Stating the time, place, and subject matter.

This provision is specifically required by law and in addition to other procedures required.

CHAPTER 101 EMINENT DOMAIN

HRS §101-20

*County or State
Agency with
Power of Eminent
Domain*

NOTICE

When the owner of the condemned land is known summons shall be served by delivering to the service to the owner. If the defendants are joined as a class, service may be made by publication:

- In a newspaper of general circulation in the county in which the property is situated;
- In a manner provided by §§634-23(3) and 634-26.

CHAPTER 103D HAWAII PUBLIC PROCUREMENT CODE

HRS §103D-302

All Depts

COMPETITIVE SEALED BIDDING

Provides for the awarding of contracts by sealed competitive bidding.

An invitation for bids shall be issued and include purchase description and all contractual terms and conditions applicable to procurement.

Adequate public notice shall be given with the policy office of the department adopting rules that specify:

- Form of the notice;
- What is a reasonable interim between publication and bid opening;
- How notice is published (publication in a newspaper of general circulation, notice by mail, publication by public or private telecommunications, or any other method it deems to be effective).

CHAPTER 109 STADIUMS

HRS §109-8

*DAGS-Stadium
(could be paid
from the*

LOST AND FOUND MONEY OR PROPERTY AT THE STADIUM

All money or property delivered to the lost and found at the stadium shall be held by the stadium for forty-five days or when

*found money
or auction)*

claimed by someone who establishes title or right of custody, whichever is shorter. If after forty-five days no claim is made the items may be claimed by the person who delivered it to the lost and found. If no claim is made by this person after thirty days after notification, the stadium manager shall deposit the money in the treasury and hold a public auction for the property. The notice of the auction shall:

- Be published in a newspaper of general circulation;
- Give the time and place of the auction.

CHAPTER 110 STATE-OWNED CEMETERIES

HRS §110-3
Comptroller

REMOVAL OF REMAINS; PUBLIC HEARING AND OTHER REQUIREMENTS

The comptroller is allowed to disinter and relocate remains in any state-owned cemetery. Before such action the comptroller shall:

- Hold at least one public hearing; and
- Notify the known relative of the deceased person whose remains are to be disinterred in writing of the public hearing. If the relative is unknown then the comptroller shall:
- Publish at least one notice of the public hearing;
- In a newspaper of general circulation in the State.

CHAPTER 159 HAWAII MEAT INSPECTION ACT

HRS §159-7
Dept of Agri

GENERAL POWERS :

The department through its board may regulate all aspects of manufacturing, processing, transportation, packaging, labeling and disposal of meat or meat products involved in intrastate commerce.

Adoption, amendment and repeal of rules are subject to chapter 91 if it involves the (1) issuance of licenses; (2) type of equipment used; (3) internal operations of slaughterhouses; (4) procedures for ante and post-mortem inspections; (5) hours of slaughtering; (6) labeling and packaging of meat; (7) storing, handling or transportation of meat; (8) sanitary conditions of establishments. The board without regard to chapter 91 may adopt all federal meat inspection regulations. Prior to the effective date of the rule, the department shall:

- Publish in a newspaper of general circulation;
- Notice containing a concise statement of the proposed rule adoption or a general description of the purpose achieved by the modification or adoption; and
- A statement that a copy of the proposed rule will be mailed to anyone who requests a copy, also detailing how a person may request a copy.

CHAPTER 161 POULTRY INSPECTIONS

HRS §161-7

Dept of Agri

GENERAL POWERS

The department may regulate, supervise, inspect, and control all aspects of the slaughtering and manufacturing of poultry. The department may adopt all federal poultry inspection regulations without regard to the notice and public hearing requirements of chapter 91. Prior to the effective date of the rules, the department shall:

- Publish in a newspaper of general circulation;
- Notice containing a concise statement of the proposed rule adoption or a general description of the purpose achieved by the modification or adoption; and
- A statement that a copy of the proposed rule will be mailed to anyone who requests a copy, also detailing how a person may request a copy.

CHAPTER 167 IRRIGATION WATER DEVELOPMENT

HRS §167-17

DOA

FORMATION OF IRRIGATION PROJECT ON INITIATIVE OF BOARD; NOTICE AND HEARING; PROTESTS

Board of agriculture may organize irrigation projects after a public hearing the date of which is not less than sixty days after the first publication:

- In a newspaper of general circulation in the county of the proposed project;
- Once in each of four successive weeks;
- Containing the area affected and general details of the proposal;
- Time and place of hearing.

CHAPTER 171 PUBLIC LANDS, MANAGEMENT AND DISPOSITION OF

HRS §171-16

DLNR

NOTICES

This section provides for the disposition of land by auction, drawing by lot, negotiation, and exchange.

Notice for auction:

- Once in each of three successive weeks;
- In newspaper of general circulation in the State;
- Also if the land is in the first, second and fourth districts publish notice in a newspaper of general circulation in the appropriate county;
- The last publication shall not be less than 10 days before the auction;
- Notice shall contain time, place, general description of the land (address, tax map key), specific use for disposition, and upset price or rental price.

Drawings

Notice inviting applications for drawing:

- Once a week for four successive weeks;

- In newspaper of general circulation published in State;
- Also if the land is in the first, second and fourth districts publish in a newspaper of general circulation in the appropriate county;
- Notice should contain qualifications required, general description of the land (address and tax map key), specific use for the disposition, and application deadline date which shall not be less than fourteen days after last publication date.

The notice of selection of applicants qualified to participate in the drawing with a notice of the drawing will be mailed to all applicants who qualified or did not.

Notice of drawing:

- State time, and place of drawing;
- Publish at least three time within a period of ten days;
- In a newspaper of general circulation in the appropriate county;
- If in first, second, and fourth districts, publish in a newspaper of general circulation in the appropriate county;
- Publication not more than once in two successive days.

Negotiation

- Published at least once in each of three successive weeks;
- In a newspaper of general circulation in the State;
- Also if in first, second, and fourth districts publish in newspaper of general circulation in the appropriate county;
- Notice shall invite proposals, and state generally the size, location, prices/rental, and the terms of the sale/lease;
- The deadline of the application date shall not be less than thirty days after the last date of publication of the notice.

Exchanges

Whenever a proposal to exchange lands for private lands by quitclaim; submerged and reclaimed lands, a public notice of such disposition shall be:

- Published at least once in each of three successive weeks;
- In a newspaper of general circulation in the State;
- Also in the appropriate county if the public land is in the first, second, or fourth districts;
- Notice shall contain the size and location of the land.

HRS §171-31.5

DLNR

*and any other
state dept/agency
which manages
land owned or
controlled by
the State*

DISPOSITION OF ABANDONED OR SEIZED PROPERTY

Department may dispose of abandoned or seized property on state land following these requirements:

- Send notice by certified mail at least thirty days before disposition to address of known owner, if owner is unknown notice posted on premises.
- Advertisement of disposition at least once in newspaper of general circulation in the county where property was abandoned/seized. Disposition shall not be less than five days after advertising.
- Requirement of advertising need not be followed if property is less than \$100.

HRS §171-41.5
DLNR

AMENDMENT OF COMMERCIAL, HOTEL, OR INDUSTRIAL LEASE

The board of land and natural resources (after notification and public hearing) may amend the height, density, and other building restrictions or requirements and the specific uses contained in a lease for hotel, commercial, or industrial use of public land to another; provided that the lease has been in effect twenty years or more and certain other requirements.

Before any amendment to a state lease the board shall give not fewer than fourteen days notice by advertisement:

- In no fewer than two newspapers;
- At least one of general circulation in the State and one of general circulation in the county where the property is situated.

HRS §171-60
DLNR

DEVELOPMENT THROUGH PRIVATE DEVELOPER*

(a) For leasehold projects the board may lease public lands or enter into a development agreement. Prior to the leasing, the board shall determine, among other things, the size of the area to be developed, minimum rental of lands to be developed and:

- Give notice of the proposed disposition by publication at least once;
- In each of three successive weeks;
- In a newspaper of general circulation in the State;
- In a newspaper of general circulation in the appropriate county; and
- Shall contain the size, location, and minimum rental of the area, minimum requirements for any required off-site and on-site improvements, estimated time to complete, the uses of the lands, and the last date of accepting bids.

(b) Fee simple residential development. Prior to the sale of public land to a developer in fee, the board must determine among other things the location and minimum sale price. It shall also give notice by publication:

- At least once;
- In each of three successive weeks;
- In a newspaper of general circulation in the State;
- In a newspaper of general circulation in the county if the land is in the first, second, and fourth districts;
- Containing size, location and minimum sale price, minimum requirements, maximum estimated time to complete and the last day of acceptance for bids.

CHAPTER 172 LAND COMMISSION AWARDS; SURVEYS

HRS §172-1
DLNR

DEPARTMENT TO LIST LANDS ON WHICH COMMUTATION PAYABLE; PUBLICATION; NOTICE TO PAY

The department shall publish a list of all lands on which commutation to extinguish the government's right is payable.

- In a newspaper of general circulation throughout the State;
- At least once each week for four successive weeks;

- Together with notice that says unless the commutation is paid prior to January 1, 1910, the amount thereafter will bear interest at the rate of six per cent a year.

HRS §172-3
Attorney General

ENFORCEMENT OF PAYMENT

Form written out in statute. The attorney general may foreclose the lien for commutation in a suit in equity. The service of process in such suit may be by publication:

- In a newspaper of general circulation in the State;
- Once each week for three successive weeks.

A copy of the published notice shall be mailed by the clerk to every person whose address is known.

HRS §172-8
Comptroller

NOTICE TO OWNERS TO HAVE BOUNDARIES DETERMINED

A list of unsurveyed lands within the State shall be prepared by the comptroller. This list shall be published:

- In a newspaper of general circulation throughout the State;
- At least once each week for four successive weeks;
- Should include names of last known owners and note that unless the unsurveyed lands have had boundaries legally determined prior to July 1, 1925, the State will proceed in the manner provided.

CHAPTER 174 WATER AND LAND DEVELOPMENT

HRS §174-17
DLNR

FORMATION OF A PROJECT ON INITIATIVE OF BOARD; NOTICE AND HEARING PROTESTS

The board of land and natural resources may organize projects upon its own initiative. It shall have a public hearing, the date which shall not be less than sixty days after the first publication of notice:

- In a newspaper of general circulation in the county in which the project is proposed;
- Once in each of four successive weeks;
- Notice of area to be included, general details of change, time and place of public hearing.

If the owners of fifty-five per cent of the acreage of lands for the project oppose the project, the project shall not be made and proceedings shall not be renewed within twelve months of the date of the public hearings unless all the protests are removed by the individual owners.

CHAPTER 174C STATE WATER CODE

HRS §174C-26
DLNR

FILING OF DECLARATION

A declaration of a person's use of water in any area of the State shall be filed. When a declaration is required the commission on water resource management shall give notice of the rule by:

- Publication in a newspaper of statewide circulation for filings in the city and county of Honolulu;

- Publication in a newspaper of areawide or countywide circulation and in a newspaper of statewide circulation for filings in counties other than the city and county of Honolulu;
- Also the commission shall give notice to any person by mail who is required to file or who has requested notice when the commission adopts rules.

HRS §174C-42
DLNR

NOTICE; PUBLIC HEARING REQUIRED

The water resource management commission shall hold a public hearing when the recommendation for the designation of water management area has been accepted. The hearing should be held in the area proposed for designation. The notice of the hearing shall:

- Contain a description of the land area, purpose of the hearing, time, date and place;
- Be published once each week for three successive weeks;
- Be in a countywide newspaper of general circulation in the appropriate county;
- The last publication shall not be less than ten days nor more than thirty days before the hearing date;
- Publication of public hearing shall be sufficient notice to all persons affected by the proposed designation.

HRS §174C-46
DLNR

FINDINGS OF FACT; DECISION OF COMMISSION

If the commission decides to designate a water management area, it shall publish a notice in a newspaper of general circulation in the appropriate county and when published the decision shall be final unless judicially appealed.

HRS §174C-52
DLNR

NOTICE

No person shall withdraw, divert, impound or consume any water in any designated water management area without first obtaining a permit from the commission. (§174C-48)

The commission shall cause a notice to be published after receiving an application for a permit. The notice shall be:

- Published in a newspaper having general circulation within the affected area;
- At least once a week for two consecutive weeks.

Also the commission shall send a notice to any person who has filed a written request for notification and upon request the commission shall make available a monthly bulletin of all pending applications.

The notice and bulletin shall contain:

- Name, address of applicant;
- Date of filing;
- Date set for hearing;
- Source of the water supply, quantity of water applied for, use of water, any limitations upon the use, place of the use, location of the well point of diversion;
- Notice shall state that written objections to the permit may be filed.

HRS §174C-62

DECLARATION OF WATER SHORTAGE

DLNR

The commission may declare a water shortage and impose restrictions on one or more classes of permits. The declaration of a water shortage shall:

- Be published in a prominent place;
- Be in a newspaper of general circulation throughout the area;
- Be done each day for the first week of the shortage and once a week until the declaration is rescinded.

HRS §174C-71

DLNR

PROTECTION OF INSTREAM USES

The commission shall establish and administer a statewide instream use protection program. One of the duties is to establish instream flow standards to protect the public interest in waters of the State. This duty is carried out by (among other things) an establishment or modification of an instream flow standard shall be initiated only by providing notice of this intention:

- (1) In a newspaper of general circulation published in the vicinity of the stream affected;
- (2) To the mayor of the appropriate county; and
- (3) To persons who have previously requested such notice in writing.

Other duties are to establish interim instream flow standards, protect stream channels from alteration and to establish an instream flow program to protect, enhance, and reestablish beneficial instream uses of water.

CHAPTER 182 RESERVATION AND DISPOSITION OF GOVERNMENT MINERAL RIGHTS

HRS §182-4

DLNR

MINING LEASES ON STATE LANDS

If any minerals are discovered or exist on state lands, any interested person may notify the board of land and natural resources of the person's desire to apply for a mining lease. The board shall (after a fee of \$100 and a description of the land accompanies the notification) publish a notice in a newspaper of general circulation in the county where the lands are located:

- At least once in each of three successive weeks;
- Containing the description of the land, and the minerals to be leased.

The board may hold a public auction of the minerals within six months from the first date of publication.

- At least thirty days prior to the public auction, the board shall publish in a newspaper of general circulation in the State;
- At least once in each of three successive weeks; and
- Containing the description of the land, minerals to be leased, time and place of auction.

CHAPTER 183 FOREST RESERVES, WATER DEVELOPMENT, ZONING

HRS §183-12

DLNR

NOTICE OF HEARING

The governor may (with approval of the department of land and natural resources, and after hearings) set aside government lands as forest reservations. (§183-11)

Before setting aside the lands, the governor shall:

- Give at least fourteen days' notice by advertisement;
- In at least two newspapers, published in the State;
- Contain island(s) and district(s) in which such land(s) are located, time and place of the hearing.

HRS §183-19
DLNR

**EXCLUSION OF LIVESTOCK FROM FOREST RESERVES,
GAME MANAGEMENT AREA, PUBLIC HUNTING AREAS,
AND NATURAL AREA RESERVES; NOTICE**

The department may remove banded wild cattle or horses found on any forest reserve, game management area, public hunting area, or natural area reserve without compensation to the owner after thirty days' public notice of intention:

- After publishing three times;
- In a newspaper of general circulation in the county where the cattle or horses are found.

HRS §183-20
DLNR

DISPOSITION

The department may without notice remove any cattle or horses found on any forest reserve, game management area, public hunting area, or natural area reserve. The owners of the animals shall pay the department the actual expenses reasonably incurred. If the owners are known, they shall be notified personally. If the owners are unknown or cannot be found, the department shall:

- Publish a statement and notice in a newspaper of general circulation in the county in which the animals are held;
- Set forth in the notice the general descriptions of all the animals removed and shall state that unless the costs are paid by the specified due date (not less than two weeks from the date of the last publication of the notice) the animals will be sold at public auction;
- Publish the notice once a week for four consecutive weeks.

CHAPTER 183C CONSERVATION DISTRICT

HRS §183C-4
DLNR

ZONING; AMENDMENTS

The department shall review and redefine the boundaries of the zones within the conservation district after notice and a hearing. Whenever there is an application to change the boundaries or land uses of any zone, or to establish a zone with certain land uses, or where the department proposes to make a change itself, the department shall give notice:

- By publication at least three times in three successive weeks;
- In a newspaper of general circulation in the State and in the county in which the property is located;
- Not less than thirty days prior to the date for the hearing;
- By stating the time and place of the hearing (should be held in the county in which the land is located).

HRS §183C-6
DLNR

PERMITS AND SITE PLAN APPROVALS

The department shall regulate land use in the conservation district by permits. The department must act within one hundred eighty days of receipt of the application. If the department fails to give notice, hold a hearing and render a decision, the owner may automatically put the land into use asked in the application. The department shall hold a public hearing in every case involving proposed use of land for commercial purposes. The notice of the hearing shall:

- Contain the time and place;
- Be published at least once in a newspaper of general circulation in the State and county in which the land is located;
- Be given not less than twenty days prior to the date set for the hearing.

CHAPTER 190D OCEAN AND SUBMERGED LANDS LEASING

HRS §190D-11
DLNR

CONSERVATION DISTRICT USE APPLICATION

Any person wanting to lease state marine waters or submerged lands shall submit a conservation district use application which is required to contain certain information specified in the section. Within sixty days of the receipt of the application, the department shall issue a public notice which:

- Shall describe the lands involved, the nature of the use sought, the purpose for the filing of the application;
- Shall be published on three separate days in a newspaper of general distribution in the State and in the county nearest the lands in the application.

If the land in the application affects the property of private owners, these owners shall be notified by personal service or by registered or certified mail.

CHAPTER 195 NATURAL AREA RESERVES SYSTEM

HRS §195-4
DLNR

POWERS AND DUTIES OF THE DEPARTMENT

The department is authorized to preserve, manage, and protect the reserves system. In carrying out this duty, the department is given several powers, one of which is to take steps to implement the reserves system management plan set forth in §195-11. The department is required to conduct one or more public hearings before terminating funding for a management plan. The notice shall:

- Be at least twenty days before the hearing;
- Be published in a newspaper of general circulation in the county where the proposed natural area reserve or natural area partnership is located;
- Also be in a newspaper of general circulation in the State;
- Contain the time and place of the hearing, the location of the land, and the proposed changes.

CHAPTER 199 CONSERVATION AND RESOURCES ENFORCEMENT PROGRAM

HRS §199-7 DLNR

SEARCH AND SEIZURE; FORFEITURE OF PROPERTY

The department by agent or by any police officer shall have authority to conduct searches on probable cause and to seize any property. Anything seized is subject to forfeiture. The disposition of the property may be destroyed, kept, or sold at public auction. The auction shall be held annually in the judicial circuit in which the property was seized. The notice of the public hearing shall:

- Be published in a newspaper of general circulation within the judicial circuit;
- Be published at least once;
- Contain the time and place;
- Not be less than twenty days prior to the auction.

CHAPTER 200 OCEAN RECREATION AND COASTAL AREAS PROGRAM

HRS §200-43 DLNR

PUBLIC AUCTION

The department may sell a vessel not repossessed within twenty days after notice by public auction, oral tenders, or by sealed bids after public notice has been made. Notice shall be:

- In a newspaper of general circulation;
- Published more than five days before the auction.

HRS §200-49 DLNR

DISPOSITION OF DERELICT VESSEL

A derelict vessel may be immediately taken into custody by the department. Upon custody the department shall publish a notice of intended disposition, post a notice on the vessel, and serve a duplicate of notice by certified mail.

If the vessel is not repossessed within twenty days after the publication or mailing of the notice, the vessel may be disposed of by public auction.

CHAPTER 201E HOUSING FINANCE AND DEVELOPMENT CORPORATION

HRS §201E-223 *Housing Finance and Development Corporation and Other State & County Depts*

RESTRICTIONS ON USE, SALE, AND TRANSFER OF REAL PROPERTY; EFFECT OF AMENDMENT OR REPEAL

Restrictions on the use, sale and transfer of property shall be made as uniform as possible. The corporation, any department of the State or any county housing agency maintaining restrictions, shall notify purchasers of change in restriction. The notice shall:

- State the enacted or proposed new provisions;
- State the effective dates;
- Offer the purchaser an opportunity to modify the existing contract;
- Be published at least three times in a newspaper of general circulation in the State for state agencies and three times in a county newspaper for county agencies.

CHAPTER 205 LAND USE COMMISSION

HRS §205-4 *Any State Dept*

AMENDMENTS TO DISTRICT BOUNDARIES INVOLVING LAND AREAS GREATER THAN FIFTEEN ACRES

Any department or agency of the State, any department or agency of the county in which the land is situated, or any person with a property interest may petition the land use commission for a change in the boundaries of lands within conservation districts. Upon petition the commission shall within not less than sixty and not more than one hundred and eighty days conduct a public hearing on the appropriate island. The notice of the hearing shall be mailed to persons who have requested for advance notice of boundary amendment proceedings. In addition the notice shall be published:

- At least once in a newspaper of general circulation in the State;
- At least thirty days in advance of the hearing;
- The notice shall comply with §91-9 (contested case hearing) and indicate the time and the place. A map showing the proposed district boundaries to be inspected.

HRS §205-5.2 *BLNR*

DESIGNATION OF AREAS AS GEOTHERMAL RESOURCE SUBZONES

Provides for the assessment by counties of areas with geothermal potential for the purpose of designating geothermal resource subzones. After the assessment the board shall propose areas for designation. Once the proposal is made the board shall hold public hearings. Hearings shall be at locations close to those areas in the proposal. The notice for the hearing shall:

- Include a description of the proposed area, a invitation for public comment, date, time, and place of the hearing;
- Be published and mailed no later than twenty days before the hearing;
- Be published on three separate days in a newspaper of general circulation in the State and in the county in which the hearing is to be held;
- Copies of the notice shall be mailed to the department of business and economic development, and tourism, to the planning commission and the planning department of the county in which the proposed areas are located and to all owners of record of land within one thousand feet of the proposed area.

CHAPTER 205A COASTAL ZONE MANAGEMENT

HRS 205A-29 *County Planning Commission*

SPECIAL MANAGEMENT AREA USE PERMIT PROCEDURE

The authority in each county shall adopt rules under chapter 91 setting the special management area use permit application procedures, conditions under which hearings must be held and the time frame of hearing and action. The authority shall provide written public notice:

- Once in a newspaper of general circulation in the State;

- At least twenty days in advance of the hearing.

CHAPTER 206 OAHU LAND DEVELOPMENT

HRS 206-5

BLNR

DECLARATION OF DEVELOPMENT AREAS

The board may declare a suitable area as a development area. This may be done after an acute shortage of residential fee simple property exists and that the shortage will not be alleviated in the near future. The evaluation of the shortage is determined by public hearings.

- Advertised in a newspaper of general circulation in the city and county of Honolulu;
- Advertised on three different days;
- The last publication shall not be less than five days before the date of hearing.

HRS §206-9

BLNR

DISPOSITION OF LANDS

The board may issue residential leases with an option to purchase the fee in any development area. Land may also be disposed of by private developers as long as it is sold according to the terms prescribed by the board. For land disposed of by the board, the buyer shall satisfy eligibility requirements such as citizenship, age, residency and income.

When a development project becomes suitable for disposition the board shall give notice.

- Publication in at least two newspapers of general circulation on Oahu;
- Contains in general terms the size, location and prices, the terms of the sale and the deadline for applications (not less than thirty days after the first publication of the notice);
- Also shall include the time and place at which more detailed information can be obtained.

HRS §206-29

BLNR

FORM AND SALE OF BONDS

The board may issue bonds and shall sell the bonds at public sale after published notice.

- Published at least five days prior to the sale;
- In a newspaper of general circulation in the State.

CHAPTER 231 ADMINISTRATION OF TAXES

HRS §231-25

Dept of Taxation

PAYMENT, ENFORCEMENT OF BY ASSUMPSIT ACTION OR BY LEVY AND DISTRAINT UPON ALL PROPERTY AND RIGHTS TO PROPERTY

The tax director has the authority to proceed to enforce the payment of unpaid taxes by an action in assumpsit or by levy. For the enforcement by levy rules dealing with successive seizures and property subject to levy need to be followed. Once the property is seized, it shall be sold at public auction.

- Notice of at least fifteen days;

- At least once in a newspaper published in the district or posting notice in at least three public places in the auction district;
- Contain time and place of sale.

HRS §231-30
Dept of Taxation

UNKNOWN OR NONRESIDENT DELINQUENTS; PROCEDURE TO COLLECT TAXES FROM

The department of taxation may issue a service of summons by publication to persons unknown that are delinquent in the payment of taxes. Publication of summons must be authorized by the district court who are given jurisdiction by this section.

- Once a week for three consecutive weeks;
- In a newspaper of general circulation in the State;
- Contains the title and substance of the action, calls on all interested parties to appear and defend and describes the property for which the tax was assessed;
- Return of service not less than three weeks from the date of issue of summons;

HRS §231-63
Dept of Taxation

TAX LIENS; FORECLOSURE WITHOUT SUIT, NOTICE

Real property with a state tax lien may be sold by foreclosure without suit by the state tax collector. For real property held for three years it shall be sold at public auction. The notice of the public auction shall be published:

- At least once a week for at least four successive weeks immediately prior to the auction;
- In any newspaper with a general circulation of at least sixty thousand in the State; and
- Any newspaper of general circulation published and distributed in the taxation district where the property is located.

If the address of the owner is known notice shall be sent by registered mail. If unknown the notice shall be sent to the owner's last known address. The notice shall be put in the mail at least forty-five days prior to the date of the sale. The notice also shall be posted for the same period in at least three conspicuous public places in the taxation district.

HRS §231-70
Dept of Taxation

DISPOSITION OF SURPLUS MONEYS

The officer in charge of the surplus arising from the tax sale shall pay from the surplus all state taxes, cost of search to determine persons entitled to surplus. The officer may refuse to distribute the surplus and may require to claimants to interplead. All persons known to have interest in the moneys shall be served with personal service. All interested persons whose names are unknown or who do not reside in the State shall have notice provided by §634-23 to 634-27, except that:

- Summons shall be in at least one newspaper published in the State;
- Newspaper having a general circulation in the circuit within which the property sold is located;
- Contain a brief description of the property which was sold.

CHAPTER 243 FUEL TAX LAW

HRS §243-5

Counties

COUNTY FUEL TAX

The county (Maui, Hawaii, Honolulu, and Kauai) shall determine by resolution the amount of county fuel tax. No resolution shall be adopted until the county conducts a public hearing. Notice of the hearing shall be:

- Published in a newspaper of general circulation within the county;
- At least twice within a period of thirty days immediately prior to the hearing.

If the resolution is adopted it shall take effect on the first day of the second month following the date of adoption. The county shall notify the department of taxation of any fuel tax changes within ten days after the resolution is adopted.

CHAPTER 246 REAL PROPERTY TAX LAW

HRS §246-40

Dept of Taxation

RETURNS, MADE WHEN; FORM; OPEN TO PUBLIC

Whenever the department of taxation finds that the filing of returns is advisable for assessments, the assessor shall give the taxpayers of the district public notice.

- Publication in English;
- At least three times on different days during the month;
- In a newspaper published in English of general circulation in the district.

After publication of notice, every person owning or having possession of real property in the district shall file the required forms during the month of January.

Returns under this section are entitled to inspection by the public and shall be taken into consideration by the tax assessor in making appraisals for assessment purposes.

HRS §246-43

Dept of Taxation

NOTICE OF ASSESSMENTS; ADDRESSES OF PERSONS ENTITLED TO NOTICE

The director of taxation on or before March 15 of the preceding tax year shall give notice of assessment to the owner by personal delivery. In addition to mailing a written notice specifying the property by tax key and general class, the assessor of each district shall give notice of the assessments in the district. Notice is by publication:

- In English;
- Published by a newspaper in English of general circulation in the district;
- Published three times on different days during the month of March.

HRS §246-56

Dept of Taxation

TAX LIENS; FORECLOSURE WITHOUT SUIT, NOTICE

The tax collector may sell any real property with a tax lien by foreclosure without suit. All property with a state tax lien held for three years shall be sold at public auction. The notice of the public auction shall be published:

- At least once a week for at least four successive weeks immediately prior to the auction;
- In any newspaper with a general circulation of at least sixty thousand in the State; and
- Any newspaper of general circulation published and distributed in the taxation district where the property is located.

If the address of the owner is known notice shall be sent by registered mail. If unknown the notice shall be sent to the owner's last known address. The notice shall be put in the mail at least forty-five days prior to the date of the sale. The notice also shall be posted for the same period in at least three conspicuous public places in the taxation district.

HRS §246-63
Dept of Taxation

DISPOSITION OF SURPLUS MONEYS

The officer in charge of the surplus arising from the tax sale (under §§246-56 to 246-61) shall pay from the surplus all state taxes, cost of search to determine persons entitled to surplus. The officer may refuse to distribute the surplus and may require to claimants to interplead. All persons known to have interest in the moneys shall be served with personal service. All interested persons whose names are unknown or who do not reside in the State shall have notice provided by §§634-23 to 634-27, except that:

- Summons shall be in at least one newspaper published in the State;
- Newspaper having a general circulation in the circuit within which the property sold is located;
- Contain a brief description of the property which was sold.

CHAPTER 249 COUNTY VEHICULAR TAXES

HRS §249-10
Director of Finance

DELINQUENT PENALTIES; SEIZURE AND SALE FOR TAX

Any unpaid taxes imposed on vehicles by the county shall become delinquent when due. The director of finance may require payment of these taxes before registration, renewal, or transfer of ownership of vehicles. Any vehicle without license plates or any vehicle with delinquent taxes upon it may be seized and held for a period of ten days during which time the owner may redeem the vehicle by paying the delinquent taxes.

All seized vehicles shall remain at the place of seizure at the expense and risk of the owner. If the owner fails to redeem the vehicle within ten days of the seizure the vehicle may be sold at public auction.

- After ten days' notice;
- In a newspaper of general circulation published in the county;
- By posting notices in at least three public places in the district where the vehicle was seized;
- Waiver of the public auction when appraised value of any vehicle is less than \$250.

If there is a surplus it shall be paid to the owner of the vehicle. If no claim is filed within sixty days from the sale, the surplus will be paid into the county treasury.

Owners of antique vehicles shall be exempt from the tax if the owner first presents to the director of finance a signed sworn certificate attesting to the nonuse of the vehicle.

HRS §249-13
County Council

DETERMINATION OF RATE

Each council shall determine the rate and the minimum tax at which vehicles shall be taxed. The rate and minimum tax shall be established by ordinance after a public hearing is held.

- Notice shall contain the time and place;
- Shall be published at least ten days prior to the hearing;
- In a newspaper of general circulation in the county.

After the public hearing the council may fix the rate but the rate shall not be higher than that proposed when the notice of the public hearing was published.

HRS §249-15
*Directors of
Finance of the
Counties*

SEIZURE AND SALE

The director of finance, any person acting on behalf of the director of finance, or any member of a police force may seize any bicycle or moped liable for the payment of required fees. They may hold the bicycle or moped for ten days during which time the owner may redeem by payment of the fee and a penalty of \$1.00. All unredeemed bicycles or mopeds shall be sold. The notice for the public auction shall be advertised.

- Five days' public notice of the time and place of the sale;
- In a newspaper of general circulation in the county where the sale is going to be held.

Any surplus funds shall go to the owners; if at the end of ninety days the owners remain unknown the surplus shall be paid into the county treasury.

CHAPTER 261 AERONAUTICS

HRS §261-7.5
DOT

**AIRPORT FACILITIES; COLLECTION OF LANDING FEES
AND OTHER CHARGES AND FEES**

The department shall have a lien placed on any aircraft landing upon any airport operated by it. The lien shall be for the full amount of the charges and fees. Before the lien shall be placed the department shall give notice upon the aircraft indicating that the owner has failed to pay the charges, the time of placing the notice, and the intention to place a lien unless the owner pays the charges within forty-eight hours of the posting of the notice.

If no charges have been paid by the deadline the aircraft may be impounded. Three days after impoundment the department shall send a second notice consisting of a copy of the first notice, and a request to pay the charges.

Within thirty days of impoundment, the owner or operator of the aircraft may file a written request with the department for an administrative hearing. The department shall have the burden of proof at the hearing to determine the sole issue of whether the

owner is current in the payments to the department. Within three days after the written request, the administrative hearing shall be held.

If the owner is found to be current in payments the impounded aircraft shall be released and the costs shall be incurred by the department.

If the owner is not current, the charges may be satisfied by the sale of the impounded aircraft. The sale shall be disposed of by public auction, oral tenders or by sealed bids, after public advertisement.

- Once in a newspaper of general circulation in the State;
- Held not less than five days after publication;

No public auction shall be required if the aircraft is appraised under \$100 and after public advertisement:

- Once in a newspaper of general circulation in the State.

HRS §261-17.6
DOT

PARKING CONTROL AT AIRPORTS

The director may impose fines not to exceed \$50 per violation or removing the vehicle. Written notice of removal shall be sent immediately by registered mail with a return receipt, to the legal and registered owner of the vehicle at the address on record. Any vehicle not repossessed within the time limit, the vehicle shall be sold at public auction held not less than five days after publication.

- Once in a newspaper of general circulation.

If the vehicle is appraised less than \$100 the requirement of public auction may be waived. The waiver is also after public advertisement once in a newspaper of general circulation.

The owner is entitled to all the surplus proceeds from the sale. If a claim is not made within sixty days from the execution of the sales agreement, the money is left in the airport revenue fund. Derelict vehicles may be disposed of or sold as junk without complying with the subsections' requirements.

HRS §261-17.7
DOT

LOST AND FOUND MONEY OR PROPERTY AT AIRPORTS

All money or property found at the airport given to the lost and found shall be held by the department for forty-five days or until claimed by a person who establishes title or right to custody. If after forty-five days no claim is made for the money or property, it shall be returned to the person who delivered it to the airport lost and found. If the person who delivered it, fails to claim the it, the money shall be deposited into the state treasury to the credit of the airport revenue fund or shall dispose of the property by public auction. At least once annually, notice shall be placed in a newspaper of general circulation:

- Containing the time and place of the auction;
- Giving notice to all persons interested.

HRS §261-71
DOT

CUSTODY AND DISPOSAL OF ABANDONED AIRCRAFT

The director may deem any aircraft which has been left unattended for a continuous period of more than thirty days and which is located at an airport (defined in §261-1(3)) under the jurisdiction or control of the State.

A written notice shall be posted upon taking custody. A duplicate shall be sent by certified mail to the registered owner of the aircraft.

The department may assess and recover from the owner certain charges arising from the aircraft from the owner.

The aircraft shall be disposed of by public auction if it is not repossessed within twenty days after the mailing of the notice.

- Advertisement for the public sale shall be made once in a newspaper of general circulation;
- The auction shall be held not later than five days after publication.

HRS §261-73
DOT

CUSTODY AND DISPOSAL OF DERELICT AIRCRAFT

An aircraft which has been left unattended for a continuous period of more than twenty-four hours is derelict if certain criteria is deemed. The director may cause a derelict aircraft to be taken into custody. Upon custody of a derelict aircraft the director shall:

- Publish a notice of intended disposition in a newspaper of general circulation within the State;
- Post notice on the aircraft;
- Serve a duplicate of the notice by certified mail on the registered owner of the aircraft, on all lien holders and any other person known to have an interest in the aircraft.

If the aircraft is not repossessed within twenty days after the publication and mailing of the notice (whichever is later), the aircraft may be disposed of by negotiated sale.

HRS §261-75

**DISPOSAL OF AIRCRAFT BY PERSONS IN AIRCRAFT
REPAIR BUSINESS**

Private individual pays for ad.

CHAPTER 266 HARBORS

HRS §266-14
DOT

DEMURRAGE, LIEN, FORECLOSURE

When any freight has remained upon any wharf, pier, bulkhead, quay, or landing for more than twenty-four hours, the department may make demurrage charges that in the department's opinion are just and equitable.

The amount payable for demurrage on the freight shall be considered a lien on the freight. The department may take and hold possession of any freight to have the payment fulfilled. If the charges due on the freight are not paid within thirty days after the freight lands, the department may sell the freight at public auction. Before such sale the department shall publish a notice:

- Containing the time and place of the sale;
- At least once each week for three successive weeks;
- In some newspaper of general circulation printed and published in the county which the freight is located. If no newspaper is published in the county, the notice shall be posted in the courthouses of the district in which the freight is located.

Any surplus shall after paying any accrued freight charges on the freight be paid to the owner. If the owner is unknown, the money shall be deposited into the state treasury. At any time within one year after the sale, upon written demand the owner may ask for the surplus. If no such request is made the money goes to the State and transfers from the special fund to the general fund.

CHAPTER 269 PUBLIC UTILITIES COMMISSION

HRS §269-12

*Public Utilities
Commission*

NOTICES

Any investigation by the public utilities commission shall be done after a notice to public utility concerned.

Any notice pursuant to §269-16(b) (rate and other changes by a public utility) shall state the proposed change. Notice will be deemed when filed with the commission and when kept open for public inspection.

Any public hearing shall be an advertised public hearing:

- On the island on which the utility is located;
- Contains purpose, date, time, and place;
- Not less than once in each of three weeks in a newspaper published in and of general circulation in the State;
- The first publication shall be not less than twenty-one days and the last publication shall not be more than two days before the hearing;
- The applicants shall notify their patrons of the proposed change in rates and of the public hearing not less than one week before the hearing.

CHAPTER 279E METROPOLITAN PLANNING ORGANIZATION

HRS §279E-6

*Metropolitan
Planning Org.
DOT*

MEETINGS

The notice of a metropolitan planning organization policy committee meeting shall be:

- Published in a newspaper of general circulation;
- At least forty-eight hours in advance of the public meeting.

When the decision of the committee concerns input into its advisory plans there shall be at least six members of the policy committee present (three state members, three county). The decision shall be made by a majority vote of the members present.

CHAPTER 281 INTOXICATING LIQUOR

HRS §281-57

PRELIMINARY HEARING; NOTICE OF PUBLIC HEARING

After the filing of the investigator's report, the liquor commission may hold a preliminary hearing and deny the application.

If no preliminary hearing or if the application is not denied during the preliminary hearing the commission shall hold a public hearing (except for applications for an alcohol license or a license in classes 7 to 10 and 13). The notice shall be published:

- At least once in each of two consecutive weeks;

- In some newspaper having general circulation in the county;
- At least forty-five days before the hearing (the first publication).

When the commission sets the day for the public hearing, the applicant shall mail a notice setting forth the time and place of the hearing to certain specified groups. These notices shall be mailed at least forty-five days prior to the hearing.

CHAPTER 290 ABANDONED VEHICLES

HRS §290-11

VEHICLES LEFT UNATTENDED ON PRIVATE AND PUBLIC PROPERTY; SALE OR DISPOSITION OF ABANDONED VEHICLES

Ad paid for by the owner of the towing company.

CHAPTER 306 UNIVERSITY PROJECTS

HRS §306-4

*Bd of Regents
University of
Hawaii*

REVENUE BONDS

Revenue bonds shall be issued in the name of the board of regents, may be in one or more series, may mature at any time, but not to exceed fifty years from their respective dates. These bonds may be sold at private sale to the United States, or any agency, instrumentality, or corporation, to the State, or any political subdivision or to any person or groups offering to purchase all or a major portion of a particular issue or series. All other sale of bonds shall be in a public sale. The notice of the public sale shall be by publication:

- At least once five days before the date of the sale;
- Made in a newspaper published and of general circulation in the State;
- Published in either the cities of New York, Chicago, or San Francisco.

The bonds shall not be sold for more than ninety-eight percent of the principle amount

CHAPTER 322 NUISANCES; SANITARY REGULATIONS

HRS §322-24

Comptroller

SERVICE OF NOTICE

The department of health shall make a recommendation of a plan to correct a condition the department of health deems a dangerous condition to the comptroller. Upon the receipt of the notice of a dangerous condition, the comptroller shall serve a notice upon the owner in person. If the land is unoccupied and the owner or the owner's residence is unknown, or if the owner is out of state and the owner's address is unknown and the owner has no known agent within the State, or if the owner is underage or incompetent, the notice shall be published:

- For five consecutive days;
- In some newspaper of general circulation published in the county where the land is situated.

The notice in all cases may be in general terms and addressed to all persons whom it may concern.

Chapter 323 HOSPITALS AND MEDICAL FACILITIES

HRS §323-70

*Division of
Community
Hospitals of
the DOH*

REVENUES [*Repeal and reenactment on June 30, 1996*]

The division shall impose and collect rates, rents, fees, and charges for the use of its public health facilities. The division shall revise these rates, rents, fees, and charges from time to time. For the division to revise, it shall give public notice:

- By publication the notice shall contain a summary statement of the substance of the revision;
- In a newspaper of general circulation;
- Not less than thirty days before the revisions take effect.

CHAPTER 328 FOOD, DRUGS, AND COSMETICS

HRS §328-22

DOH

DUTIES OF DEPARTMENT

The department of health shall inquire into the quality of any food, drug, device, or cosmetic manufactured, sold, or kept or exhibited or offered for sale by any person. If the item is deemed to be adulterated, impure, or unwholesome the director shall make a complaint with the necessary evidence through the proper authorities. Whenever it believes that the public interest will be served by a written notice or warning, it shall issue a warning through all available news media (television, radio, newspaper, and other available methods of communication).

CHAPTER 340E SAFE DRINKING WATER

HRS §340E-6

DOH

NOTIFICATION OF USERS AND DEPARTMENT

Notice is needed when a public water system meets certain requirements, such as failure to comply with a maximum contaminant level, or treatment technique; failure to monitor; failure to comply with a schedule prescribed by a variance; subject to a variance or exemption to the variance. In these situations certain notification procedures are followed:

- For a violation of a maximum contaminant level, notification shall be given as soon as possible and not later than fourteen days after the violation;
- Notice of a variance or exemption shall be given not less than every three months;
- A notice shall be published in a newspaper of general circulation within the areas served by the public water system.

CHAPTER 342B AIR POLLUTION CONTROL

HRS §342B-13
DOH

PUBLIC PARTICIPATION

When the director deems public participation appropriate, the director shall provide for notice:

- Available for public inspection in at least one location in the county affected by the action. Containing information on the subject matter, information submitted by the applicant, the department's analysis and proposed action and other appropriate documents.

A published notice to the public detailing the availability of the information shall be:

- Published in a newspaper which is printed and issued at least twice weekly in the county affected;
- Mailed notice to any person upon request;
- A period of no less than thirty days following the public notice shall be set for interested parties to submit written comments. The time may be extended at the director's discretion;
- A public hearing is at the director's sole discretion if it would aid in the decision. Any person may request a public hearing. The request shall be in writing and filed within the thirty-day comment period and shall indicate the interest of the party filing the request and reasons to hold the hearing;
- The director shall hold a public hearing when revisions of the state implementation plan are required by the Clean Air Act.

CHAPTER 342D WATER POLLUTION

HRS §342D-7
DOH

VARIANCES

Applications for variance shall be made on department forms detailing the description of present conditions, how conditions do not conform to standards, and other information required by the department. Whenever an application is approved the department shall issue a variance authorizing the discharge of water pollutant in excess of applicable standards.

The director may have a hearing in accordance with chapter 91. Any application for a variance shall be subject to public participation.

- Notice shall be circulated within the geographical areas of the proposal;
- Notice shall be mailed to any requesting person;
- A period of not less than thirty days following the date of the public notice shall be provided for interested parties to submit written comments;
- Contents of the public notice of application shall include at least (1) name, address, and phone number of agency issuing the public notice; (2) name and address of each applicant; (3) a brief description of the applicant's activities which result in the discharge; (4) short description of the location of the discharge; (5) a description of the procedures for the formulation of final determinations; (6) address and phone

number of state agency where the interested person may obtain further information;

- Public hearing may be held if the director deems it helpful. Any hearing shall be held in the geographical area of the proposed discharge.

CHAPTER 342F NOISE POLLUTION

HRS §342F-5

DOH

VARIANCES

All applications for variances shall be made on department forms. Whenever an application is approved the department shall issue a variance allowing the emission of noise in excess of applicable standards.

Any variance or renewal shall be granted under certain requirements and conditions. The director may afford a hearing in accordance with chapter 91.

Every completed application shall be subject to public notices (except for off-hour road work).

- Notice shall be circulated within the geographical areas of the proposed emission (circulation includes publication in local newspapers and periodicals, if appropriate, in a daily newspaper of general circulation;
- Notice shall be mailed to any requesting person;
- A period of not less than thirty days following the date of the public notice shall be provided for interested parties to submit written comments;
- Contents of the public notice of application shall include at least (1) name, address, and phone number of agency issuing the public notice; (2) name and address of each applicant; (3) a brief description of the applicant's activities which result in the emission; (4) short description of the location of each emission; (5) a description of the procedures for the formulation of final determinations; (6) address and phone number of state agency where the interested person may obtain further information;
- Public hearing may be held if the director deems it helpful. Any hearing shall be held in the geographical area of the proposed emission.

CHAPTER 342G INTEGRATED SOLID WASTE MANAGEMENT

HRS §342G-30

DOH

RECORDS

The operator of a municipal solid waste landfill or incineration facility shall keep records of deliveries of solid waste to the landfill. The records shall include the source of the waste, the kind of waste received, the weight and/or volume of the waste. Upon request these records shall be available to the department. If the cost of compliance is greater than value of accurate and thorough data, the department may grant an exception. The public shall be notified through publication of a public notice in a newspaper of general circulation in the State.

CHAPTER 342H SOLID WASTE POLLUTION

HRS §342H-5

DOH

VARIANCES

All applications for variances shall be made on department forms. Whenever an application is approved, the department shall issue a variance allowing the disposal of solid waste in nonconformance with applicable standards.

Any variance or renewal shall be granted under certain requirements and conditions. The director may afford a hearing in accordance with chapter 91.

Any variance under this section may be renewed for periods not more than five years. All renewal applications shall be made at least one hundred eighty days of application.

- Notice shall be circulated within the geographical areas of the proposed emission (circulation includes publication in local newspapers and periodicals, if appropriate, in a daily newspaper of general circulation);
- Notice shall be mailed to any requesting person;
- A period of not less than thirty days following the date of the public notice shall be provided for interested parties to submit written comments;
- Contents of the public notice of application shall include at least (1) name, address, and phone number of agency issuing the public notice; (2) name and address of each applicant; (3) a brief description of the applicant's activities which result in the disposal; (4) short description of the location of each disposal; (5) a description of the procedures for the formulation of final determinations; (6) address and phone number of state agency where the interested person may obtain further information;
- Public hearing may be held if the director deems it helpful. Any hearing shall be held in the geographical area of the proposed disposal.

CHAPTER 342L UNDERGROUND STORAGE TANKS

HRS §342L-6

DOH

VARIANCES; PROCEDURES FOR

All applications for variances shall be made on department forms. Whenever an application is approved the department shall issue a variance allowing the installation or operation of an underground storage tank in a manner deviating from full compliance with applicable standards.

Any variance or renewal shall be granted under certain requirements and conditions. The director may afford a hearing in accordance with chapter 91.

Any variance under this section may be renewed for periods not more than five years. All renewal applications shall be made at least one hundred eighty days of application.

- Notice shall be circulated within the geographical areas of the proposed emission (circulation includes publication in local newspapers and periodicals, if appropriate, in a daily newspaper of general circulation);

- Notice shall be mailed to any requesting person;
- A period of not less than thirty days following the date of the public notice shall be provided for interested parties to submit written comments;
- Contents of the public notice of application shall include at least (1) name, address, and phone number of agency issuing the public notice; (2) name and address of each applicant; (3) a brief description of the applicant's activities which result in the activity described in the variance; (4) short description of the location of each underground storage tank; (5) a description of the procedures for the formulation of final determinations; (6) address and phone number of state agency where the interested person may obtain further information;
- Public hearing may be held if the director deems it helpful. Any hearing shall be held in the geographical area of the proposed activity.

CHAPTER 356 HAWAII HOUSING AUTHORITY; LOW INCOME HOUSING

HRS §356-29
HHA

FORM AND SALE OF BONDS

The authority is authorized to issue bonds in one or more series. The bonds may be sold at not less than par at public sale held after a public notice.

- Once at least five days prior to the sale;
- In a newspaper having a general circulation in the State.

Bonds shall still be valid if the commissioners or officers of the authority who have signed the bonds are no longer commissioners or officers.

CHAPTER 359 STATE HOUSING PROJECTS

HRS §359-80
HHA

SALE OF BONDS

Housing bonds may be sold at private sale. If not sold at private sale the bonds shall be sold publicly after notice:

- Published once;
- At least five days prior to the sale;
- In a newspaper circulating in the State;
- In a financial newspaper published in any of the cities of New York, Chicago, or San Francisco.

CHAPTER 360 PROVISIONS APPLICABLE TO PUBLIC HOUSING GENERALLY

HRS §360-13
HHA

FORECLOSURE OF LIEN, NOTICE, ETC.

The Hawaii housing authority shall put a lien on all personal property for the amount of the charges against the tenant for the rent of the room. (§360-12). The lien may be foreclosed by the selling of the personal property. The sale shall be held after:

- Mailing a notice of foreclosure to the tenant who owns or was in possession of the personal property;

- Publishing a notice of foreclosure and sale at least two times in a newspaper of general circulation in the county where the personal property is located;
- Notices of several foreclosures and sales may be combined in one notice. (The expenses of the advertising and sale shall be proportionally divided among the consolidated sales.)

If the tenant fails to pay the authority within ten days after the mailing, the authority may sell the property at public auction at the time and place specified in the advertising.

The surplus money from the sale shall be paid over to the tenant. If the surplus is not claimed within thirty days after the sale, then the surplus shall be kept by the director of finance in a special deposit for six months. If no claim by the tenant during this period the surplus shall be paid into the general fund.

HRS 360-16
HHA

LIEN ON ABANDONED PERSONALTY, SALE, ETC.

If the Hawaii housing authority has in its possession for four months after the termination of any residence, the authority may sell the property at public auction and apply the money to the charges for storage of the personal property. Before such sale is made, the authority shall:

- Publish a notice of the time and place of sale at least two times in a newspaper of general circulation in the county which the property is located;
- Notice shall contain a brief description of the property, the name of the former resident, amount of charges for storage, and the indebtedness, if any;
- Storage charges, advertising, and sale charges shall be a lien;
- Notices of several sales may be combined and published in one notice. Whenever combined the expenses shall be divided proportionally.

CHAPTER 383 HAWAII EMPLOYMENT SECURITY LAW

HRS §383-71
DLIR

COLLECTION OF DELINQUENT CONTRIBUTIONS

(a) Civil actions. The director of labor and industrial relations may proceed to collect payment for payments required to be paid by the employer to the State. No proceeding shall be begun after the expiration of four years from the last day of the month following the last month of the quarter for which the contributions are due.

(b) The director may collect the delinquent employer's goods, chattels, moneys, or intangibles the director may deem sufficient to satisfy the payment. After taking the property the director shall see the delinquent employer's interest in the property at public auction;

- After giving fifteen days' public notice of time and place of the sale by publication;
- At least once in a newspaper, published in the county where the sale is held; or
- Posting a notice in at least three public places in the county where the sale is to be held.

The sale shall take place within twenty days after the seizure provided that it can be extended for a week.
The sale shall be completed within forty-five days after seizure.
All surplus shall be returned to the owner of the property sold. If the owner seeks to retain or regain possession of the property, the owner may give sufficient bond at the time of sale or pay all contributions.

CHAPTER 396 OCCUPATIONAL SAFETY AND HEALTH

HRS §396-4
DLIR

POWERS AND DUTIES OF DEPARTMENT [*Repeal and reenactment on July 1, 1996.*]

The department shall be responsible for administering occupational safety and health standards throughout the State. The department shall adopt, amend, or repeal occupational safety and health standards conforming to the requirements of chapter 91. Emergency temporary standards may be adopted without conforming to chapter 91 or hearings. The emergency temporary standards shall take immediate effect upon publication of a notice in a newspaper of general circulation in the State.
The department is authorized to inspect and investigate specific incidents and places mentioned in this section.
The department shall be in charge of occupational safety and health education and training.
The department shall be authorized to enforce the occupational safety and health standards by citation or order or by injunction restraining the use of the dangerous equipment.

CHAPTER 397 BOILER AND ELEVATOR SAFETY LAW

HRS §397-4
DLIR

POWERS AND DUTIES

The department shall establish a boiler and elevator inspection bureau for the enforcement of rules and regulations. The department shall adopt and enforce standards, rules, and regulations for carrying out the purposes of this chapter in accordance with chapter 91.
Emergency temporary standards may be enacted without conforming to chapter 91 and without hearing upon:

- Publication of a notice in a newspaper of general circulation in the State.

Variances may be granted upon application.
Permits are granted if the applicant meets certain criteria.
The department is authorized to inspect and investigate any establishments or premises on which boilers, pressure systems, amusement rides, and elevators are located.
The department is also authorized to educate and train people in the safe use of boilers, elevators, pressure systems, and amusement rides.
The department shall enforce any regulations.

CHAPTER 412 CODE OF FINANCIAL INSTITUTIONS

HRS §412:2-409

CONSERVATOR'S SEGREGATION OF DEPOSITS

Commissioner may permit conservator to accept deposits. Any order requiring segregation of deposits shall remain effective no longer than 30 days after conservator has returned possession to the board of directors.

Before return to board, conservator shall publish a notice:

- At least 30 days prior to return;
- In a newspaper of general circulation in every county where the institution has places of business open to the public;
- Contains date of return and that deposits will not be segregated any longer.

HRS §412:2-415

NOTICE OF RECEIVERSHIP; FILING OF CLAIMS

Upon commencement of receivership the receiver shall give notice by:

- Publishing the notice in a newspaper of general circulation;
- In every county where the financial institution engages in business;
- Once in each of three successive weeks.

Other forms of notice to be given is the delivering of the notice to all known depositors and posting the notice in the principal office and each branch of the institution.

HRS §412:3-204

PUBLICATION OF NOTICE

The applicant to organize a Hawaii financial institution pays for the publication.

HRS §412:3-302

PUBLICATION OF NOTICE

Applicant for a license to engage in the nondepository financial services loan business publishes the notice.

HRS §412:3-612

ACQUISITION OF CONTROL OF FINANCIAL INSTITUTION OR FINANCIAL INSTITUTION HOLDING COMPANY

Company wanting the change of control pays for the publication.

CHAPTER 415 HAWAII BUSINESS CORPORATION ACT

HRS §415-87

PROCEDURE AFTER FILING OF STATEMENT OF INTENT TO DISSOLVE

The corporation pays for the publication.

HRS §415-92

ARTICLES OF DISSOLUTION

Refers to HRS §415-87 in which the corporation pays for the publication of intent to dissolve.

HRS §415-95
DCCA

DISSOLUTION; INVOLUNTARY; ORDERED BY DIRECTOR AND CERTIFICATES, NOTICES; REINSTATEMENT

When the director certifies the corporation as having given any cause for dissolution, the director may declare a corporation dissolved if the director:

- Gives notice of grounds of dissolution;
- Publishes the notice to dissolve once in each of three successive weeks (three publications) in a newspaper of general circulation in the State.

HRS §415-119

WITHDRAWAL OF FOREIGN CORPORATION

The foreign corporation shall publish the notice of the foreign corporation's intent to withdraw from the State.

CHAPTER 415A PROFESSIONAL CORPORATION ACT

HRS §415A-18
DCCA

INVOLUNTARY DISSOLUTION; REINSTATEMENT

The director may declare a corporation dissolved when a corporation has failed to comply with any provision of this chapter. The director must (1) mail a notice of the grounds of dissolution to the corporation; (2) publish the intention to dissolve the corporation once in each of three successive weeks in a newspaper of general circulation.

Within ninety days after the involuntary dissolution the director may reinstate the corporation after two officers execute a written application and the payment of all costs.

CHAPTER 415B HAWAII NONPROFIT CORPORATION ACT

HRS §415B-91

VOLUNTARY DISSOLUTION

The corporation shall publish a notice of the intent to dissolve.

HRS §415B-98
DCCA

**INVOLUNTARY DISSOLUTION, ORDERED BY DIRECTOR;
REINSTATEMENT**

The director may declare a corporation dissolved after mailing notice to the corporation of the grounds for dissolution and publishing a notice once in each of three successive weeks in a newspaper of general circulation published in the State.

HRS §415B-134

WITHDRAWAL OF FOREIGN CORPORATION

The foreign corporation pays for the published notice.

Chapter 421 AGRICULTURAL COOPERATIVE ASSOCIATIONS

HRS §421-12

GENERAL AND SPECIAL MEETINGS; HOW CALLED

Agricultural associations' board of directors publish and pay for the notice of meetings.

CHAPTER 425 PARTNERSHIPS

HRS §425-17

WITHDRAWAL PROCEDURE FOR FOREIGN GENERAL

PARTNERSHIP

The foreign general partnership must publish and pay for the notice of intent to withdraw from the State.

CHAPTER 425D UNIFORM LIMITED PARTNERSHIP ACT

HRS §425D-906.6

CANCELLATION OF REGISTRATION

A foreign limited partnership shall publish and pay for a notice to withdraw from the State.

CHAPTER 431 INSURANCE CODE

HRS §431:3-215

WITHDRAWAL FROM STATE; OBLIGATIONS

Insurer shall pay and publish a notice of withdrawal.

HRS §431:3-408

CONFIDENTIALITY AND PROHIBITION ON ANNOUNCEMENTS

Insurer may publish an announcement if the purpose is to rebut a materially false statement.

HRS §431:10C-311

TOTAL LOSS MOTOR VEHICLE CLAIMS; CASH SETTLEMENT

Discusses the use of newspaper advertisements as a source of reflective market values.

HRS §431:13-103

UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE ACTS OR PRACTICES DEFINED

Discusses false advertising, defamation, misrepresentations, etc.

HRS §431:14-119

PUBLICATION OF APPROVED WORKERS' COMPENSATION RATE FILINGS

Insurer submitting the workers' compensation rate shall publish a notice of an approved filing in a newspaper of general circulation in the State.

HRS §431:15-311

NOTICE TO CREDITORS AND OTHERS

The liquidator shall give notice of liquidation by publication.

HRS §431:16-110

DUTIES AND POWERS OF THE COMMISSIONER

The commissioner may require the association to notify the insureds by publication in a newspaper of the determination of insolvency.

HRS §431:16-218

PROHIBITED ADVERTISEMENT OF ASSOCIATION ACT IN INSURANCE SALES; NOTICE TO POLICYHOLDERS

Prohibits any person from any advertisement using the Hawaii Life and Disability Insurance Guaranty Association of this State for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by the Hawaii Life and Disability Insurance Guaranty Association Act.

HRS §431:19-102.4 **REDOMESTICATION; CONVERSION TO FOREIGN INSURER**
The domestic captive insurance company pays for the public notice of intent to transfer domicile.

HRS §435E-41 **UNFAIR METHODS OF COMPETITION AND DECEPTIVE ACTS OR PRACTICES**
Describes unfair methods of competition and deceptive acts. Involves making these acts in published documents.

CHAPTER 440G CABLE TELEVISION SYSTEMS

HRS §440G-7 **CABLE FRANCHISE APPLICATION OR PROPOSAL PROCEDURE; PUBLIC HEARING; NOTICE**
The director shall notify an applicant in writing of the acceptance or nonacceptance of the application.
After the notice of acceptance the director shall hold a public hearing. The notice of the hearing shall be:

- Published at least once in each of two successive weeks in a newspaper of general circulation in the county in which the proposed service area is located;
- The last published notice shall appear at least fifteen days prior to the date of the hearing.

CHAPTER 441 CEMETERY AND FUNERAL TRUSTS

HRS §441-16 **HEARING** (for removal of property dedicated to cemetery purposes)
Cemetery authority publishes notice of the hearing for the removal of land dedicated to cemetery purposes:

- Describe the portion to be removed from dedication;
- State that all remains have been removed;
- Specify time and place of hearing.

CHAPTER 445 COUNTY LICENSES

HRS §445-112 **WHERE AND WHEN PERMITTED**
Deals with when and how a person may maintain or use a billboard or display any outdoor advertising device.

CHAPTER 448 DENTISTRY

HRS §448-6 **POWERS AND DUTIES, MEETINGS**
The board of dental examiners shall meet for the examining of applicants. Notice of time and place of examination shall be given by publication:

- In a newspaper of general circulation in the State.

CHAPTER 485 UNIFORM SECURITIES ACT (MODIFIED)

HRS §485-14 **REGISTRATION OF DEALERS, INVESTMENT ADVISERS,
SALESPERSONS AND INVESTMENT ADVISER
REPRESENTATIVES**
Dealers may be requested to publish notice of registration.

CHAPTER 486K HOTELS

HRS §486K-3 **SALE OF DETAINED BAGGAGE; NOTICE; DISPOSITION OF
PROCEEDS**
Baggage and/or property held by hotelkeeper for three months
shall be sold at public auction.

- Notice published three times in newspaper of general
circulation in county where hotel is kept.

CHAPTER 490 UNIFORM COMMERCIAL CODE

HRS §490:2A-507 **PROOF OF MARKET RENT: TIME AND PLACE**
Reports in newspapers of value of any goods shall be evidence of
relevant rent.

CHAPTER 501 LAND COURT REGISTRATION

HRS §501-41 **NOTICE OF APPLICATION**
DLNR Form is written out in statute.
The registrar shall cause notice of the filing of the application to
be published:

- In some newspaper of general circulation;
- The form shall be substantially as specified in the statute.

HRS §501-42 **SERVICE; RETURN DAY; FURTHER NOTICE**
The return day of notice shall be not less than twenty, nor more
than sixty, days from the date of issue. The court shall within
seven days after publication in a newspaper cause a copy of the
notice to be mailed by the registrar to every person named in the
application. The court shall also cause a duly attested copy of the
notice to be posted in a conspicuous place on each parcel of land
included in the application.

CHAPTER 502 BUREAU OF CONVEYANCES; RECORDING

HRS §502-3 **DEPUTY REGISTRAR, APPOINTMENT, DUTIES**
Registrar The registrar shall appoint a deputy whose appointment shall be
announced in a newspaper suitable for the advertisement of
notices of judicial proceedings.

CHAPTER 507 LIENS

Animals, Care of HRS §507-2

ENFORCEMENT BY SALE OF ANIMALS

If the owner of animals after demand and notice in writing that a lien will be enforced fails to pay the amount due within thirty days, the lien holder may sell the animals at public auction. The holder may do this after:

- Fifteen days' notice;
- Publishing in a newspaper of general circulation in the county where the animals are pastured, fed, or sheltered.

Bailee HRS §507-5

FORECLOSURE BY BAILEE WHEN NOT OTHERWISE PROVIDED

The bailee shall give and pay for public notice when a lien has attached to personal property and has not been satisfied.

Laundries, Cleaners HRS §507-14

ENFORCEMENT; NOTICE; AUCTION

The laundry/cleaners shall publish and pay for an advertisement for the sale of articles left for at least ninety days.

Personal Property HRS §507-23

SALE OF PERSONAL PROPERTY BY LIEN HOLDER

The holder of the lien shall publish and pay for the public notice of the sale.

Mechanic's and Materialman's Lien HRS §507-43

FILING NOTICE, CONTENTS

The publication of notice of completion shall be done by the contractors.

Self-Service Storage Facilities HRS §507-66

METHOD OF SALE

The company must advertise the sale of the goods.

CHAPTER 514A CONDOMINIUM PROPERTY REGIMES

HRS §514A-102

The developer is required to publish in the classified section the notice to sell a project.

CHAPTER 516 RESIDENTIAL LEASEHOLDS

HRS §516-22

DESIGNATION OF LEASED FEE INTEREST IN ALL OR PART OF DEVELOPMENT TRACT FOR ACQUISITION

The corporation shall publish notice.

HRS §516-29
HHA

NOTICE OF DISPOSITION

No sale or lease of any residential lots (except the sale of the leased fee interest to the lessee of a residential lot under lease) shall be made by the Hawaii housing authority unless it has published a notice of its intent to sell or lease:

- Published on at least two different days in a newspaper of general circulation in the county;
- Contains the size, location, and prices or lease rentals of the lots to be sold and the terms of the sale and the deadline for the applications;
- The deadline shall not be less than thirty days after the first publication of the notice.

CHAPTER 523A UNIFORM UNCLAIMED PROPERTY ACT

HRS §523A-18
Director of Finance

NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY

The director shall publish a list of abandoned property no later than March 1, or in case of property reported by life insurance companies not later than September 1 of the year following the report.

- The list shall be published once a week for two consecutive weeks;
- In a newspaper of general circulation in the county of this State in which the last known address of any person named in the notice;
- The notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property";
- Containing (1) names in alphabetical order and the last known address; (2) statement that information concerning the property and the name and last known address of the holder may be obtained by inquiring of the director; (3) statement that if proof of claim is not presented by the owner to the holder and the owner's right to receive the property is not established to the holder's satisfaction before April 20, or October 20 (life insurance cases) the property shall be in the custody of the director no later than May 1, or November 1 (life insurance cases);
- No published notice for items less than \$50.

HRS §523A-22
Director of Finance

PUBLIC SALE OF ABANDONED PROPERTY

The director (except in cases of securities listed on an established stock exchange or in the best interest of the State the director deems a shorter holding time) shall sell abandoned property within three years after receipt at a public sale:

- Single publication;
- At least three weeks in advance of the sale;
- In a newspaper of general circulation in the county in which the property is to be sold.

HRS §523A-56
Director of

POSTING COPY OF REPORT; NOTICE OF INTEREST AND INTENTION TO CLAIM; DETERMINATION OF ASSERTED

Finance

INTEREST

When the report of previously unreported information relating to unclaimed property is received by the director, the director shall publish a notice no later than September 1 of the year immediately following the report:

- At least once a week, for two consecutive weeks;
- In a newspaper of general circulation in the county of this State in which is located the last known address of a person named in the notice. (If no address is listed or is outside the State, the notice shall be published in the city and county of Honolulu.)
- Containing names in alphabetical order, last known address of persons listed in the report, and a statement that information about the name and address of the holder may be obtained from the director.
- No need for published notice for any items less than \$50.

HRS §523A-59
B&F or AG

NOTICE OF PROCEEDINGS

Within five days after the filing of the petition for the determination of the State's right to custody of unclaimed property, a notice of the proceedings shall be published:

- Once each week for three consecutive weeks;
- In a newspaper of general circulation published within the city and county of Honolulu;
- At the time of first publication a copy of the petition and notice shall be posted at the courthouse in the county where each respondent was last known to have had an address;
- Notice shall contain information stating that the State seeks custody of the unclaimed property, the names of the respondents (not addresses), and a statement stating that the respondents are believed to live or have lived within the State;
- No description of the property.
- The petition and place of filing shall be identified and described. Notice of when answers to the petition shall be filed and advise that persons claiming an interest must answer the petition within the time prescribed by law to preserve their claims against the United States;
- Notice deemed completed forty-five days after the date of first publication.

CHAPTER 531 PROBATE: JURISDICTION AND PROCEDURE

HRS §531-29

**CONFIRMATION OF SALES OF REAL PROPERTY BY
PERSONAL REPRESENTATIVES OR GUARDIANS**

The personal representative or guardian is required to publish and pay for a notice.

HRS §531-33

PROCEDURE TO DISPOSE OF UNCLAIMED PERSONALTY

The personal representative shall give notice to heirs and legatees by public notice.

CHAPTER 560 UNIFORM PROBATE CODE

HRS §560:1-401

NOTICE; METHOD AND TIME OF GIVING

The applicant files notice to the interested party. Notice to be given by any method, fourteen days before or by publication if address or identity is not ascertained.

HRS §560:1-713

SALE, ENCUMBRANCE OR TRANSACTION

Notice needs to be given by requirements of §560:1-401, but newspaper publication is not required.

HRS §560:3-801

NOTICE TO CREDITORS; TRANSFER OF CLAIMS

A person petitioning for appointment of a personal representative shall publish/pay for a notice announcing the person's application.

HRS §560:3-1206

PUBLICATION BY CLERK OF APPOINTMENT AS PERSONAL REPRESENTATIVE; NOTICE TO CREDITORS, HEIRS, ETC.

Clerk appointed as personal representative shall publish, for estates of \$10,000 or less, a notice at the entrance of the courthouse and by:

- Advertising a notice in English;
- At least once;
- In a newspaper of general circulation in the judicial circuit;
- Stating briefly all creditors must file with clerk within sixty days from date of publication and all persons claiming to be heirs of the estate are also required to file within the same time period.

CHAPTER 574 NAMES

HRS §574-5

CHANGE OF NAME: PROCEDURE

Person desiring name change shall pay for the publication of the name change.

CHAPTER 578 ADOPTION

HRS §578-7

SUBSTITUTED OR CONSTRUCTIVE SERVICE

Service to the legal parent if unknown shall be by publication by the adopting parents.

CHAPTER 580 ANNULMENT, DIVORCE, AND SEPARATION

HRS §580-3

SERVICE

The plaintiff in an annulment, divorce, or separation shall be responsible for the costs of publication.

CHAPTER 601 COURTS GENERALLY

HRS §601-13

*The public &
possibly gov't
agencies*

PUBLICATION OF NOTICES AND PROCESS

All notices or process required by law to be published shall be published or advertised:

- In a newspaper having general circulation within the county in which the proceedings are commenced.

CHAPTER 612 JURORS

HRS §612-16

Judiciary

GRAND JURY

Notice of drawing of grand jury shall be published:

- Containing the time and place of drawing;
- In a newspaper of general circulation published within the circuit for which the grand jury is drawn (if no newspaper, then after at least one week's posting of such notice in at least three conspicuous places in the circuit).

CHAPTER 634 CIVIL ACTIONS AND PROCEEDINGS, GENERALLY

HRS §634-23

*Mainly the public
possibly gov't*

JOINDER OF UNKNOWN PERSONS; SERVICE WHEN DEFENDANT UNKNOWN OR ABSENT

The plaintiff may join any person having an interest whose name is unknown. If the defendant is unknown or resides outside the State, the court may order service by publication:

- In at least one newspaper published in the State, having general circulation in the circuit in which the action has been instituted;
- Not less than once in each of four successive weeks;
- Last publication not less than twenty-one days prior to the return date stated.

HRS §634-29

IN CASE OF ATTACHMENT, ETC., OF REAL PROPERTY

The officer serving the writ of attachment, sequestration, or injunction of real property shall deliver a copy to the defendant, post a copy upon the premises, and shall give notice in a newspaper suitable for the advertisement of judicial proceedings.

CHAPTER 651 ATTACHMENT AND EXECUTION

HRS §651-43

ADVERTISEMENT FOR SALE

The officer shall advertise for sale the property levied, for thirty days or such time as the court requires by posting a written or printed notice in three conspicuous places within the district where the property is located.

If on Oahu, by advertisement at least three times in one or more newspapers published in Honolulu.

HRS §651-70

Mainly public

SERVICE OF PETITION AND NOTICE OF HEARING; EFFECTS OF FAILURE TO SERVE; APPOINTMENT OF

possibly gov't

APPRAISERS

A copy of the petition within ninety days of the date of filing shall be personally. If unable to locate upon diligent search service shall be done by publication:

- Once in a newspaper of general circulation in the State at least twenty days before the hearing.

CHAPTER 664 BOUNDARIES, FENCES, WAYS, WATER RIGHTS

HRS §664-7
Commissioners

NOTICE, EVIDENCE, DECISION

The commissioner of boundaries, upon receipt of the application, shall notify the owner of the land, and also the land adjoining, and the attorney general, of the time when the commissioner will be prepared to hear their case. The commissioner shall advertise in newspapers:

- Once in each of three successive weeks.

CHAPTER 667 MORTGAGE FORECLOSURES

HRS §667-5

FORECLOSURE UNDER POWER OF SALE; NOTICE; AFFIDAVIT AFTER SALE

The mortgagee publishes notice of the intention to foreclose.

CHAPTER 668 PARTITION OF REAL ESTATE

HRS §668-14

SALES; AUCTION, NOTICE

All sales of any property in partition shall be public auction, the notice of which:

- Publication of notice in at least one newspaper published in the State;
- Having general circulation in each circuit within which the property is situated;
- Once in each of four successive weeks;
- Contains a description of the property to be sold.

CHAPTER 669 QUIETING TITLE

HRS §669-3

NOTICE BY PUBLICATION OR REGISTERED MAIL

Person initiating suit pays for the publication.

CHAPTER 712A FORFEITURE

HRS §712A-8
AG

NOTICE OF FORFEITURE PROCEEDINGS

Notice required under this chapter shall be given if the owner's address is not known by publication in one issue of a newspaper of general circulation in the county in which the seizure occurs.

CHAPTER 803 ARRESTS, SEARCH WARRANTS

HRS §803-38

MUNITIONS OF WAR

A search warrant may be issued in a case where there is reasonable cause to believe that arms or munitions of war are collected in any place for the purpose of riot.

If found the munitions shall be brought before the judge. The judge shall cause a notice to be published in some newspaper:

- Describing the articles seized;
- Notice of time and place of hearing;
- Take place not less than four and not more than five weeks from the publication of the notice.

CHAPTER 805 CRIMINAL PROCEDURE

HRS §805-12

Chief of Police

UNCLAIMED ARTICLES USED AS EVIDENCE, DISPOSITION OF

When an article not subject to forfeiture which has been offered into evidence in any criminal case heard by a district judge, remains in the possession of the judge for a continuous period of one year after disposition of the matter. The judge may deliver the article to the chief of police of the county in which the judge's circuit lies. The chief of police shall give notice by postcard or ordinary mail to each person. Also the chief shall publish a notice of proposed forfeiture of unclaimed articles offered or admitted into evidence.

- The form is specifically laid out in the section.

Chapter 3

THE COST TO THE STATE OF PUBLISHING NOTICES IN NEWSPAPERS OF GENERAL CIRCULATION

This chapter examines the cost of publishing notices in the newspapers, using data collected from the Bureau's survey, a 1989 Bureau report on state codes and registers, and figures from the Accounting Division of the Department of Accounting and General Services (DAGS).

In addition to examining how costs are established, this chapter will discuss generally other results of the Bureau's survey of government agencies such as the kinds of notices being published, how much space is being given to publication of the State's legal notices in newspapers, and which newspapers are used for legal ads.

Costs, Generally

A column inch is defined by the Random House Dictionary of the English Language as: "Type one column wide and one inch (2.54 cm) deep."¹ A column width measures 1.25 inches. A full newspaper page measures about 200 column inches (10 column widths across by 20 inches from top to bottom.) The factors which can affect the total cost of an ad are: the kind of ad (classified, legal, display), the size of the ad in column inches; the newspaper(s) selected for publication; and the number of times the ad appears, among other things. Most legal notices take up space somewhere between one column inch and a full page. The State Procurement Office uses a price list which governs the price of legal advertisements in the Honolulu Advertiser and Honolulu Star-Bulletin for the agencies of the State of Hawaii. These figures do not include the general excise tax. (See Exhibit 3-A).

For illustrative purposes only, the Bureau used price list figures for the Honolulu Advertiser and Honolulu Star-Bulletin to see what the range of costs could be for the smallest and the largest ad space per newspaper page. The price of a one-time insertion of a legal ad of one column inch is given below with the estimated price of a full page ad (calculated by multiplying the column inch rate by two hundred):²

	One Column Inch:	Full Page:
Honolulu Advertiser	\$22.54	\$4,508
Honolulu Star-Bulletin	\$21.35	\$4,270
In both papers on the same day	\$31.15	\$6,230
Sunday publication	\$33.04	\$6,628

State agencies also advertise in mainland papers, professional journals, and other Hawaii papers such as the Hawaii Hochi, Pacific Business News (PBN), Ka Leo (University of Hawaii student newspaper), and neighbor island papers at whatever the advertising rates of these

1. Random House Dictionary of the English Language 2d ed. (NY: 1987).

2. A full page has about 215 column inches according to the Hawaii Newspaper Agency, however, a legal advertising banner appears along the top edge (for which there is no charge), and takes up some newspaper space, so 200 column inches was used in this report in cost calculations.

papers might be. These papers are used to target certain audiences, such as student employment ads directed towards students who wish to work part-time (as in the case of KaLeo ads).

Exhibit 3-A

PRICE LIST 96-03

GROUP I - LEGAL ADVERTISING

Single or multi column width ad

Single column: 7.6 pica (approx. 1-1/4")

Double column: 15.4 pica (approx. 2-1/2")

Body of copy: 8 lines per column inch

Type size: Heading line & subject description - Per agency request

Copy Body - 9 point medium face on 9 point base

Schedules - Per agency request

		<u>Single Column - Price Per Inch</u>			
		<u>MONDAY THRU SATURDAY</u>			
		<u>Morning</u>	<u>Evening</u>	<u>Both Morn. & Evening</u>	<u>SUNDAY</u>
<u>VENDOR:</u>		<u>HONOLULU ADVERTISER</u>	<u>HONOLULU STAR-BULLETIN</u>	<u>HAWAII NEWSPAPER AGENCY, INC.</u>	
1.	One insertion per ad order	\$22.54	\$21.35	\$31.15	\$33.04
2.	Two insertions per ad order	20.97	19.64	28.49	30.17
3.	Three insertions per ad order	20.44	19.06	27.60	29.21
4.	Four insertions per ad order	20.18	18.78	27.16	28.74

GROUP II - CLASSIFIED ADVERTISING

Single or multi column width ad

Single column: 7.6 picas (approx. 1-1/4")

Double column: 15.4 picas (approx. 2-1/2")

Copy body and type sizes - Per agency request

5.	Straight Classified:				
	One insertion				
	per ad order	39.27	35.76	55.45	57.04

COST TO THE STATE OF PUBLISHING NOTICES

6. Classified Display (with pictures, logos, borders or bold type): One or more insertions per ad order	39.39	36.59	55.75	60.21
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GROUP III - DISPLAY ADVERTISING

Double column: 25.7 picas
Copy Body and type sizes -
Per agency request and
shall not include color,
photographs or tabloid
publications Schedules - Per agency request

Single Column - Price Per Inch


MONDAY THRU SATURDAY

	<u>Morning</u>	<u>Evening</u>	<u>Both Morn. & Evening</u>	<u>SUNDAY</u>
VENDOR:	<u>HONOLULU ADVERTISER</u>	<u>HONOLULU STAR-BULLETIN</u>	<u>HAWAII NEWSPAPER AGENCY, INC.</u>	
7. One or more insertions per ad order	\$49.18	\$45.48	\$70.04	\$75.10

ORIGINAL AFFIDAVIT OF PUBLICATIONS

First
Second

No charge
7.50/copy



ROBERT J. GOVERNS
Procurement Officer

Source: Publication of Legal, Classified and Display Ads; Price List No. PL 96-03, 9/1/95
to 8/31/96, pages 3-4.

Some sample sizes and corresponding charges for public notices are displayed here for the reader's information.

Exhibit 3-B

An ad this size published once on Sunday, June 27, 1993, cost \$1,327.04.

"The State has an obligation to protect, control, and regulate the use of Hawaii's water resources for the benefit of its people." — Article XI, Section 7, Hawaii State Constitution (1978)

REVIEW COMMISSION ON THE STATE WATER CODE
STATE OF HAWAII
c/o Legislative Reference Bureau
State Capitol
Honolulu, Hawaii 96813

NOTICE OF PUBLIC INFORMATIONAL MEETINGS

The public is invited to attend a series of informational meetings to be conducted by the Review Commission on the State Water Code, State of Hawaii. The Review Commission was established pursuant to Section 5 of Act 45, Session Laws of Hawaii, 1987, to perform a comprehensive review of the State Water Code and to develop recommendations to improve the Code. The review will include all water issues addressed in the State Water Code and other matters of fundamental importance which should be dealt with in the State Water Code but which have not yet been incorporated. The Review Commission will submit a final report to the Hawaii State Legislature by the end of 1994. The Review Commission would like public input and comments on issues relating to the State Water Code, including:

- The identification and definition of public and private rights to waters.
- The institution of a comprehensive statewide permit system.
- The integration of water quality and water quantity matters for a unified management of the resource by a single lead agency.
- The appropriate agencies of the state and county responsible for protecting, developing, and controlling water, their aims and objectives, the necessary powers to be conferred upon them, and their organizational support.
- Designation of water management area.
- Water allocation.
- Appurtenant rights, and riparian and correlative rights and uses.
- Native Hawaiian water rights.
- Hawaii Water Plan.
- Protection and conservation of water resources.
- Agricultural water needs.
- Stream management and the setting of instream flow standards.
- Data collection and analysis regarding the quantity and quality of available resource.
- Desalination.
- Reuse of waste water.

The informational meetings are scheduled as follows:

Windward Oahu	Date: Wednesday, July 7, 1993 Place: Heeia Elementary School Cafetorium
Leeward Oahu	Date: Thursday, July 8, 1993 Place: Nanakuli Elementary School Cafetorium
Hilo, Hawaii	Date: Wednesday, July 14, 1993 Place: Hawaii County Council Chambers
Kona, Hawaii	Date: Thursday, July 15, 1993 Place: Kealahou Intermediate School Cafetorium
Lihue, Kauai	Date: Tuesday, July 27, 1993 Place: Kauai County Council Chambers
Lanai:	Date: Tuesday, August 3, 1993 Place: Lanai High & Elementary School Cafetorium
Molokai	Date: Thursday, August 5, 1993 Place: Mitchell Pauoli Center
Wailuku, Maui	Date: Wednesday, August 18, 1993 Place: Maui County Council Chambers
Hana, Maui	Date: Thursday, August 19, 1993 Place: Hana High & Elementary School Cafetorium
Honolulu, Oahu	Date: Wednesday, August 25, 1993 Place: Mabel Smyth Auditorium

ALL INFORMATIONAL MEETINGS ARE SCHEDULED TO BEGIN AT 7:00 P.M. *The State Water Code was enacted as Act 45, Session Laws of Hawaii, 1987, and is codified as Chapter 174C, Hawaii Revised Statutes. Copies of the meeting agendas, minutes of meetings, and reports of the Review Commission are available for public inspection at the following depositories: Legislative Reference Bureau Library, Hawaii State Library, Waianae Public Library, Pearl City Public Library, Kaneohe Public Library, McCully Public Library on Oahu, Lihue Public Library on Kauai, Kahului Public Library on Maui, Kaunakakai Public Library on Molokai, Lanai City Public Library on Lanai, Hilo Public Library on Hawaii, Hamilton Library, University of Hawaii at Manoa, University of Hawaii Law School Library, Honolulu Board of Water Supply, Hawaii Department of Water Supply, Kauai Department of Water, and Maui Department of Water Supply.

For further information, please contact the Review Commission on the State Water Code.
Telephone: (808) 587-0683

THE HONOLULU ADVERTISER,
Sunday, June 27, 1993

Exhibit 3-C

An ad this size, published once, in the Honolulu Advertiser on September 22, 1994, cost \$65.74.

NOTICE TO
OFFERORS
OFFER FORMS for
the following will be
available from and re-
ceived at the State Pro-
curement Office, Dept. of
Accounting & General
Services, 1151 Punchbowl
St., Rm. 416, Honolulu,
and must be submitted no
later than 10:00 a.m. on
October 11, 1994:
IFB-95-032-O - IBM
3090-300J or Equal
Mainframe Comput-
er Upgrade
IFB-95-033-O - License
Upgrades for MVS/
ESA Operating Sys-
tem & Related Soft-
ware Components.
(Hon. Adv.: Sept. 22,
1994) (A-29892)

The Bureau's 1995 Survey Methodology

As part of this study, the Bureau attempted to survey all state and county agencies. The survey form was developed over a period of eight or nine weeks and included preliminary trials with the assistance of several cooperative individuals before the final survey was printed. The purposes of the survey were to identify: (a) the various kinds of public notices published in the newspapers by an agency; (b) the amount of space taken up by these notices; and (c) how much money was spent by the agency during fiscal year 1993-1994 for printing public notices in the newspaper.

In mid-July multiple copies of survey forms were distributed to all state departments and counties along with a cover letter explaining the authority and reason for the survey. Surveys were completed during the remainder of July and the month of August, 1995.

The Bureau received 282 completed surveys in August and September, of which 217 were from state respondents and 65 from county respondents. Interviews were conducted by the researcher with a number of individuals as follow up to clarify certain responses and in other cases, to develop further any ideas for alternatives to newspaper publication of notices.

Survey Results

At the outset it should be noted that this was an unscientific survey of departments. The decision of who would respond to the survey was left completely to the discretion of the respective Mayors and state department directors. The choice of newspaper or magazine,

and day of the week in which to publish notices, are decisions made at the discretion of the agency, and depend on the department or agency's duties, experience, and knowledge of their clientele or target audience. In addition to specific survey findings, the Bureau observed the following general patterns in the survey responses:

- (1) Public hearing notices of hearings for rulemaking actions under the Hawaii Administrative Procedure Act (HAPA), pursuant to section 91-3, *Hawaii Revised Statutes*, are the most frequent kind of legal notice that state and county agencies are required by law to publish in the newspapers. This is understandable, because nearly every department or agency may need to adopt rules affecting the public, and many must do so on a regular basis.
- (2) Other kinds of notices that may be published statewide, and by nearly every department are those dealing with requests for bids from contractors, requests for professional services, and notices for hearings other than for purposes of the HAPA. In fact, notices in these three categories are published in almost equal frequency after HAPA hearing notices.
- (3) The surveys indicated a widespread conscious effort by public agencies to "get the word out" by selecting the newspaper with the most circulation (Sunday Advertiser), or targeting the notice to readers on certain days based on readers' general habits, such as publishing notices on days when the newspaper is most likely to be read for food or other advertisements (including the fact that certain stores advertise on certain days). Specific weekdays such as Mondays, Wednesdays, and Fridays may be selected for professional clientele most likely to read weekday papers instead of weekend papers. This includes certain professionals such as engineers, architects, and contractors. Other targeting efforts include employment ads published in professional journals in order to obtain the broadest exposure to a class of potential applicants with special skills or in a shortage category.
- (4) Agencies make every effort to contact their known interested clientele concerning upcoming bid requests or hearings. Telephone and mailout notices are used in addition to the published newspaper notices. Some survey respondents felt that publication of notices in the newspapers is unnecessary when telephone calls and mailed notices are used to notify individuals and businesses. These respondents say that no interest would otherwise be expressed without the direct contact from the agency.
- (5) Agencies, even when statutorily not mandated to do so, will publish ads to keep the public abreast of information that could be helpful, such as public park hours, road work, changing traffic patterns, public forums that are not required by law, and the like. If perceived by the public agency to be of informational importance, the notices are published several times in a period of days or weeks.
- (6) Despite any readership disinterest, newspapers are viewed as the medium of choice because newspapers are widely available and issued frequently, are relatively inexpensive, have the permanence of the printed word, and easily carried, cut out, and otherwise handled.
- (7) The availability of electronic media such as television, radio, computers and the like were suggested as other means for publicizing a variety of government

COST TO THE STATE OF PUBLISHING NOTICES

notices. The popularity of electronic mail or the use of the Internet was also mentioned by some survey respondents. The Internet has its drawbacks given the required equipment and costs of a personal computer, modem, online account, and so on. The State is already moving in the direction of listing some kinds of notices on Hawaii FYI in prototype form, and cable television also uses a bulletin board format for notices on the public information channels.

- (8) Estimating the amount of column inches or pages needed for public notices in any given week is nearly impossible because of the unpredictability of space needs. For example, public agencies do not decide beforehand to issue ten column inches worth of notices for administrative rulemaking actions every week, month, or year. It is difficult, if not impossible, to predict how many contested case hearings will occur in any given week, or how many bid contracts will be issued within any given time period. Therefore, the estimates for space requirements (column inches or typed pages) are just that--estimates. Even the Bureau's cost estimates are affected when space requirements are based on estimates.
- (9) Many departments treat newspaper publication costs as "miscellaneous expenses" for which no specific amount is budgeted each year.
- (10) Several respondents indicated that public service announcements (PSAs) or press releases are other ways to get information out to the public for those notices which are not required by statute to be published as a legal notice. The possibility exists, however, that the press of other newsworthy items will push aside these informative notices from the newspaper that day or that week. Exhibit 3-D from the Honolulu Star-Bulletin shows a column which places together very brief notices of upcoming public hearings, meetings, road repairs and neighborhood board meetings.

Exhibit 3-D

PUBLIC HEARINGS

Ethics

■ **HAWAII STATE ETHICS COMMISSION:** 11:30 a.m. Wednesday, 1001 Bishop St., Pacific Tower, Suite 970.

Land

■ **STATE LAND USE COMMISSION:** 9 a.m. Thursday, Conference Rooms 322 B and C, third floor, Kaianemoku Building, action on reclassification of 273 agricultural acres to conservation at Kaapehu, Hanalei, Maui; reclassification of 932 agricultural acres to conservation at Haleakala and Peahi, Maui; reclassification of 29 agricultural acres to conservation at Hanalei, Lihue, Kauai; reclassification of 38 agricultural acres to conservation at Hanalei, Kauai; and amendment to reclassification of agricultural land to urban at Honolulu, Ewa, Oahu. Briefing on West-hole Ditch issues and conservation district issues.

■ **CITY DEPARTMENT OF LAND UTILIZATION:** 1:30 p.m. Personnel Conference Room, City Hall Annex, zoning variances.

Liquor

■ **CITY LIQUOR COMMISSION:** 4 p.m. Tuesday, Pacific Park Plaza, 711 Kapiolani Blvd., sixth floor. Hearing on liquor license applications.

Transportation

■ **HONOLULU PUBLIC TRANSIT AUTHORITY:** 2 p.m. Tuesday, second floor conference room, Pacific

ic Park Plaza, Suite 205, updates on the Hand-Van operation, TheBus visitor-oriented passport, fiscal year 1996 budget, downtown shuttle, and the Hybrid-Electric Bus Program. The board will decide on a supplemental paratransit taxi service interim agreement, the Alaie terminal reconfiguration and the appointment of an acting executive director.

Vocations

■ **STATE DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS, PROFESSIONAL AND VOCATIONAL LICENSING DIVISION:** These hearings will be held at the Kamamaku Building, 1010 Richards St.

■ **Boating:** 1 p.m. tomorrow, Kapuwai Room.
■ **EASLA:** 8 a.m. Thursday, Kuhina Nui Room.
■ **Hearing aid dealers:** 2 p.m. Thursday, Kuhina Nui Room.

■ **Massage:** 9 a.m. Wednesday, Kapuwai Room.

■ **Motor Vehicle Industry:** 2 p.m. Wednesday, Kapuwai Room.

■ **Motor Vehicle Repair:** 9:30 a.m. Thursday, Kapuwai Room.

■ **Osteopathy:** 3 p.m. Friday, Kapuwai Room.

■ **Real Estate Appraiser:** 10 a.m. Wednesday, Kuhina Nui Room.

Water

■ **HONOLULU BOARD OF WATER SUPPLY:** Rescheduled regular board meeting, 2 p.m. June 14, 630 S. Beretania St.

ASIA-PACIFIC FORUM

"Forum" is a list of special events and guest speakers that runs Mondays in the Star-Bulletin. Send items in writing to City Editor, Honolulu Star-Bulletin, P.O. Box 3080, Honolulu 96802, or call 525-8640.

■ **AQUACULTURE:** International symposium on sustainable aquaculture, June 11-14, Ilika Hotel. Issues include pollution, extensive destruction of mangroves, the imposition of rules and regulations halting environmental damage and social disruption. E-mail: whitewhewc.btrnet@cmsa.berkeley.edu or call 944-7285.

■ **JAPANESE CULTURE AND CIVILIZATION:** Five-week summer institute, June 4-July 8, providing 30 U.S. undergraduate faculty who are not Asian specialists an overview of Japanese culture. Participants will develop curricular plans for their home institutions. E-mail: buickhewc.btrnet@cmsa.berkeley.edu or call 944-7315.

■ **PACIFIC ISLAND CULTURE AND IDENTITY:** Seminar for college teachers on the significance of culture and tradition as idioms of identity and political relations in the contemporary Pacific, June 12-Aug. 4. Participants will study Pacific tradition and how people create, maintain and contest their understandings of culture. E-mail: smithhewc.btrnet@cmsa.berkeley.edu or call 944-7343.

MEETINGS

Business

■ **AGRI-BUSINESS DEVELOPMENT CORPORATION:** 1:30 p.m. Friday, Board Room, state Department of Agriculture, 1428 S. King St. Results of proposed Department of Agriculture reorganization and an update on the Commission on Water Resource Management public meeting April 18.

■ **HONOLULU MINORITY BUSINESS DEVELOPMENT CENTER:** Free orientation to familiarize minority business community with the center's services, 9 a.m. tomorrow, Grant Thornton LLP, First Hawaiian Tower, Suite 1000. Call 531-6232.

■ **REASON FOUNDATION HAWAII:** "Good News from the Frontlines" with Robert Poole, president of the Reason Foundation, 7-8 a.m. Thursday, Pacific Club Garden Lanai. Call 396-1724. Breakfast \$7.50 at the door. Sponsored by the Tax Foundation of Hawaii and Small Business Hawaii.

■ **SMALL BUSINESS DEVELOPMENT CENTER:** "Income and Cash Flow Projections: How to Prepare and Use Financial Statements," 9 a.m. to 3 p.m. tomorrow, 130 Merchant St. Bancorp Tower. Cost is \$30. Call 522-8131.

Community

■ **COALITION FOR HOUSING HOMELESS PEOPLE WITH MENTAL ILLNESS:** noon to 2 p.m. Wednesday, 1st floor conference room, Palama Settlement. Discuss Safe Haven, Supportive Studio Living and Long Term Rehab Residence. Call 845-4565.

Neighborhood Boards

TUESDAY

- **Ililiha/Kapalama:** 7 p.m. Maemae Elementary School, 319 Wyllie St.
- **Waikiki:** 7 p.m. Waikiki Community Center, 310 Paoakalani Ave.
- **Waiānae:** 7 p.m. Waiānae Neighborhood Community Center, 85-670 Farrington Highway

WEDNESDAY

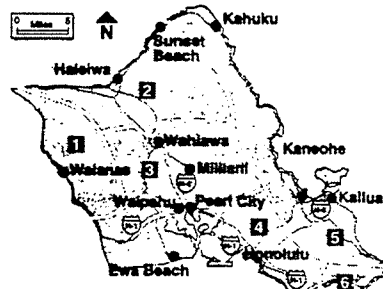
- **Manoa:** 7 p.m. Noelani Elementary School, 2655 Woodlawn Drive
- **Kaimuki:** 7 p.m. Kaimuki Recreation Center, 3521 Waiālae Ave.

THURSDAY

- **Diamond Head/Kapahulu/St. Louis Heights:** 7 a.m. Ala Wai Clubhouse, second floor, 404 Kapahulu Ave.
- **Ewa:** 7 p.m. Friendship Youth Center, 91-1207 Renton Road
- **Aliamanu/Salt Lake/Foster Village:** 7 p.m. Aliamanu Intermediate School cafeteria, 3271 Salt Lake Blvd.
- **Koolauloa:** 7 p.m. Hauula Satellite City Hall, 64-010 Kukuna Road

Reported by Star-Bulletin staff

Beware of road repairs



Roadwork planned this week:

1. LEEWARD OAHU:

- **Waiānae:** Farrington Highway from Ala Hema to Jade streets.

2. NORTH OAHU:

- None.

3. CENTRAL OAHU:

- **Kunia:** Palailai to Kunia interchanges. Waipio: Kamehameha Highway from Waipio Uka to Lumaiina streets. Mililani: Welehu Place; Kapuahi, Kaholo, Ulukoa, Ololu and Hokuilii streets; Noholua Loop; Lanikuhana Avenue; and Anania Drive. Waipahu: Ka Uka Boulevard; Waipahu Depot Road; and Pahiwa, Ukee and Puahi streets.

4. HONOLULU:

- **Alaia:** Pali Momi, Ulune and Aulii streets. Kalihi: Nihi Street from Noe to Puolani streets. Nuuanu: Pali Highway off-ramp. Nimitz: Hickam Main Gate. Ala Moana: Ala Moana Boulevard from Ke-

awe Street to Ala Wai Canal; and Ala Wai Canal to Atkinson Drive.

5. WINDWARD OAHU:

- **Kaneohe:** Likelike Highway from the Board of Water Supply pump station to Kahekili Highway; Kamehameha Highway from Heeia Bridge to Kahekili Highway; Aumoku streets; Leleua Place, Way and Loop; Kuaua and Koiawe ways; and along Likeke Place from Kaneohe Bay Drive to the end of the road

6. EAST OAHU:

- **Aiea/Haiku/Niu Valley:** Aiea and Mahimahi streets; and Halemaumau Place. Hawaii Kai: Hawaii Kai Drive to Kea-hole Street; Paiko Drive to Hawaii Kai Drive; Kea-hole Street to Hawaii Kai Drive; Hawaii Kai Drive to Holy Trinity Church; Holy Trinity Church to East Halemaumau Street; Kaumakani Street; Kikoo Place; and Anapalau Place and Street.

Specific Findings from the LRB Survey

Annual cost of Publishing Notices by State Agencies

State agencies spent \$597,755.55 in fiscal year 1986-1987 and \$706,853.16 in fiscal year 1987-1988³ solely for the purpose of publishing public notices in newspapers pursuant to the requirements of the HAPA. The cost of all other advertisements would have been additional. The cost figures for the publication of all notices in more recent years are displayed below. Cost figures do not include the counties.

Exhibit 3-E

LEGAL NOTICES: COST TO THE STATE OF HAWAII

<u>Fiscal Year</u>	<u>Amount Spent by All State Agencies</u>
1991-1992	\$3,849,218***
1992-1993	\$3,748,941***
1993-1994	\$2,408,735*** (\$2,286,345)**
1994-1995	\$3,386,151***
1995-1996	\$1,084,428 (estimate)**

** Source: 1995 LRB survey.

*** Source: Accounting Div., DAGS, 1995, includes all advertising costs.

Advertising Costs by Department

The Accounting Division of DAGS supplied the Bureau with a printout showing the total amounts spent for advertising costs as a particular budget object code, for fiscal years 1991-1992, 1992-1993, 1993-1994, and 1994-1995. It is assumed that each state division, branch, commission, or agency correctly entered each expenditure by the proper object code and that all (not only newspaper) advertisements were included in the figures. Advertisements other than newspaper publication of legal notices could include television, radio, and printed brochures or flyers.

The total amount reported spent by departments in the Bureau's survey for fiscal year 1993-1994 was about ninety-five percent of the figure reported by DAGS. This figure confirmed the level of accuracy in the survey, however unscientifically the distribution might have been arranged.

In contrast, the anticipated estimated total for newspaper advertising for fiscal year 1995-1996, is an extremely conservative \$1,084,428, that is only forty-eight percent of the 1993-1994 figure and thirty-two percent of the 1994-1995 figure. This confirms the hypothesis that departments cannot accurately predict or budget for the expenses of newspaper legal advertisements. Some respondents indicated this by saying, "it depends" or "It varies from year to year".

3. Ken H. Takayama, Pathfinders: Administrative Codes, Registers, and State Blue Books. Legislative Reference Bureau, Report No. 7 (Honolulu: 1989), p. 177.

In fiscal year 1994-1995 advertisements of all kinds (including legal ads in newspapers) by State agencies, was \$3,386,151. After dropping slightly from 1991-1992 and 1992-1993 and 1993-1994, the 1994-1995 total showed an increase of about \$1,100,000 over 1993-1994.

Estimating Space Required for Publishing Legal Notices

The Bureau sought information on the estimated amount of space used per week for publishing legal notices in the hopes of using the data to compare the cost of producing a separate publication of public or legal notices whether by using a newspaper tabloid or another method. The reported total estimated column inches needed is about 1700 column inches per week.

In terms of pages (8 1/2 x 11 inches) departments estimated they would use about 152 pages per week of double-spaced typed pages of notices. Both column inches and typed pages of notices as indicators of the estimated amount of space needed per week for legal notices are very tenuous because there is little predictability in estimating needs in column inches or typed sheets. Furthermore, as will be seen in chapter 5, there is almost no comparability between the cost of a newspaper tabloid insert and the cost of a full page legal advertisement. Although cost estimates are reported in this study, none of these figures can be considered immutable. "It all depends", a favorite cliché heard often during the research for this study, is the standard rule.

Using estimated space requirements for printing any other type of publication like a state register or a construction weekly is even more inexact so that quoting a cost figure could be inappropriate at this time.

Which Newspaper?

The Honolulu Advertiser and Honolulu Star-Bulletin as newspapers with statewide circulation receive the bulk of legal notices. Notices required by law and even informational notices are also published in neighbor island papers such as the Garden Isle, Hilo Tribune Herald, and Maui News, because these papers are viewed as the primary newspapers of their respective counties. There are, however, the Molokai Dispatch and West Hawaii News that serves the west side of the island of Hawaii. Lanai and Niihau do not appear to have regularly issued island-specific newspapers. One finding which may affect the extent of notice given the public is that the Hilo Tribune Herald, while available at shops is not home-delivered in West Hawaii, but West Hawaii News is. West Hawaii News was mentioned less often as a neighbor island paper in which legal notices are placed so that anyone on that side of the Big Island who fails to purchase a Tribune Herald, the Honolulu Star-Bulletin, or Honolulu Advertiser, is more likely not to receive notice of state and county government activities on the island of Hawaii. One can expect pockets of island communities where legal notices do not receive widest distribution because of lack of home delivery, but not for lack of a newspaper.⁴

4. One way government agencies may remedy the West Hawaii lapse is to purchase advertising space through the Neighbor Island Dailies Association (phone: 1-800-548-1294) at the rate of \$50.92 per column

Conclusions to be Drawn from LRB's Survey

The cost of publishing legal notices (which are statutorily mandated) and public notices (which are for the general benefit of any citizen) costs the State about \$3,300,000 per year and about \$550,000 per year for the four counties collectively. The amount of space needed in the future for legal and public notices is difficult to predict because it is not possible to anticipate what kind of government actions will arise in the future to require the giving of notice.

The Bureau's survey revealed that departments appear to make every effort to notify vendors, service professionals, and others by supplementing the newspapers with telephone calls and the postal services when it is prudent to do so in order to generate more notice. Certain papers, journals, days of the week, are chosen with deliberation to get the word out to a target audience. The concept of "giving notice" is taken seriously by public agencies. Among notices required to be published in newspapers, public hearing notices of rulemaking actions under the HAPA are the kind of legal notice that agencies most frequently reported having to publish. HAPA rulemaking notices were followed closely in terms of reported frequency by those concerning requests for bids, requests for professional services, and hearing notices other than for purposes of HAPA.

inch. This rate will pay for the publication of an ad in the following four papers: Tribune Herald, Maui News, Garden Island, and West Hawaii Today.

Chapter 4

OTHER STATES

Senate Resolution No. 3 (1995) asked the Bureau to include in its study the legal notice requirements of other states. This chapter describes the Bureau's investigation into other states' publication of legal notices in newspapers. Statutes of the following states were reviewed: Florida, North Carolina, Pennsylvania, Washington, California, New York, Oregon, Illinois, Wisconsin for a selection from north, south, west, east, and central states.

Hawaii statutes differ from statutes in other states in that few terms relating to the publication of legal notices in newspapers are defined. "Published notice" is the only term that is defined: "'Published notice" means notice stating generally the purpose and the time and place for the hearing or meeting to which the notice relates, or stating generally the information required to be covered by the notice, published at least once (unless a greater number of publications is specifically required) in a newspaper of general circulation in the county in which the hearing or meeting is to be held, or in which the redevelopment project concerned is situated. Unless otherwise specifically provided, the publication, or the first publication (if more than one), of the notice must be made at least three days prior to the date of the hearing or meeting to which it relates."¹

The contrast between Hawaii's statutes and some other states can be described briefly as follows.

1. Designation of An Official State Newspaper.

It is not unusual for a state to identify which newspaper will be its official newspaper for the publication of official or legal notices. According to AmJur: "In many jurisdictions, statutory provisions require designated officers or boards to select the newspaper or newspapers in which official notices and legal advertisements are to be published."² For example, Wisconsin statutes provide that a joint committee on legislative organization shall recommend to the Legislature, in the form of a joint resolution, to designate some Wisconsin newspaper to be the official state newspaper which shall continue as such until another newspaper is designated by the Legislature.³

Illinois, too has an official state newspaper. According to Turek, "Each fiscal year, the state chooses a newspaper of general circulation published at least 6 times a week as the official state newspaper. This newspaper publishes all state notices that are required by law to appear in the official newspaper, such as procurements that legally must be put out to bid by state agencies. The state can choose among more than 70 daily newspapers, and does so through a bidding process in which newspapers bid line rates for state notices."⁴

1. Hawaii Rev. Stat., sec. 53-1.

2. 58 AmJur 2d, Newspapers, etc. 35.

3. West's Wisconsin Statutes Annotated, Chapter 985, W.S.A. 985.04, Publication of legal notices; public newspapers, fees. Official state newspaper.

4. Gayle M. Turek, "Cost of Legal Notices for Government Units" Illinois General Assembly, Legislative Research Unit, Research Response (Chicago: May 22, 1990), p. 2.

2. *Definition of Newspaper.*

Hawaii's statutes do not provide a definition of the term "newspaper".

In Oregon, "newspaper" means a newspaper of general circulation, published in the English language for the dissemination of local or transmitted news or for the dissemination of legal news, made up of at least four pages of at least five columns each, with type matter of a depth of at least 14 inches, or, if smaller pages, then comprising an equivalent amount of type matter, which has bona fide subscribers representing more than half of the total distribution of copies circulated, or distribution verified by an independent circulation auditing firm, and which has been established and regularly and uninterruptedly published at least once a week during a period of at least 12 consecutive months immediately preceding the first publication of the public notice....⁵

Washington provides the following qualifications of a legal newspaper. A legal newspaper shall be published regularly, at least once a week, in English, as a newspaper of general circulation in the city or town where the same is published at the time of application for approval, for at least six months prior to the date of application; contain news of general interest as contrasted with news of interest primarily to an organization group or class...⁶

Illinois' statutes provide that the term "newspaper" means a newspaper (a) which consists of not less than 4 pages of printed matter and at least 130 square inches of printed matter per page; (b) printed through a conventional printing process such as letter press, lithography, or gravure; (c) which annually averages at least 25 percent news content per issue, or annually averages at least 1,000 column inches of news content per year for at least one year prior to the first publication of the notice; (d) which publishes miscellaneous reading matter...concerning current happenings ...of a political, social, religious, commercial, financial, or legal nature, advertisements or bulletins; and (e) has been continuous published at regular intervals of at least once each week with a minimum of 50 issues per year for at least one year prior to the first publication of the notice.⁷

Pennsylvania defines newspaper of general circulation as a daily, or not less than once a week (paper), intended for general distribution and circulation, sold at fixed prices per copy per week, month, or year, to subscribers and readers without regard to trade, profession or class.⁸ Pennsylvania also allows for the use of trade publications for the publication of legal advertising. For public works contracts, supplies, and equipment, legal advertising is allowed in any publication or journal devoted to information about construction work.⁹

In Hawaii, the size of a newspaper's circulation (as a condition for public notice) is specified in at least two sections of the *Hawaii Revised Statutes*. Section 89-12(c)(2)(C) requires notification to "essential employees" in the event of a strike "...in both of the newspapers having the largest general circulation in the State". Section 246-56, with regard

5. 1993 Oregon Revised Statutes, section 193-010 definitions.

6. Rev. Code of Washington, 1994, sec. 65.16020. Qualification of legal newspaper.

7. Ill. Rev. Stat., chap. 5. sec. 5.

8. 45 Pa. C.S.A. sec. 101 (1994).

9. 45 Pa. C.S.A. sec. 306 (1994).

to notice of a tax lien on real property which may be sold by foreclosure without suit by the tax collector, requires publication "...in any newspaper with a general circulation of at least 60,000 published in the State".

3. *Other Definitions.*

"Public notice" is defined in Oregon to mean any legal publication which requires an affidavit of publication, or is required by law to be published.¹⁰

"Legal notice" is defined in Wisconsin as one required by law or court order including publication of laws, financial statements, notice and certification of election, summons, order, citation, order of sale and the like.¹¹ Wisconsin statute also requires that publication of legal notices in public newspapers be in a newspaper likely to give notice in the area or to the persons affected.¹² In Wisconsin the qualifications of newspapers require, among other things, being regularly and continuously published in at least two of the last five years before notice publication in the city or town where published, and having a bona fide paid circulation of fifty percent or more of its circulation; appearing at regular intervals at least once a week, containing reports of happenings of recent occurrence of varied political, social, and religious subjects.¹³

4. *Publication by Radio or Television.*

Washington statutes provide for publication of official notices by radio or television. The relevant provision states in pertinent part that any official who is required by law to publish any notice required by law may supplement publication thereof by radio or television broadcast or both, when in his judgment, the public interest will be served thereby. Certain restrictions apply such as that no candidate for political office can read or be shown, that the broadcast be made only by duly employed personnel of the station, and that notices by political subdivisions may be made only by stations situated within the county of origin of the legal notice.

Furthermore, the broadcaster is to retain a copy or transcript of the notice for six months, and proof of publication shall be by affidavit of the manager, or certain other persons.¹⁴

Oregon has similar provisions for television and radio broadcast of notices.¹⁵

In Hawaii, a reference to electronic communication of notice can be found in section 47-9(d), *Hawaii Revised Statutes*, referring to the sale of bonds. This kind of notice is specific to a limited clientele who would likely have foreknowledge of the upcoming sale, and therefore

10. O.R.S. sec. 193.010 Definitions (1993).

11. W.S.A. 985.01.

12. W.S.A. 985.02.

13. W.S.A. 985.03.

14. Revised Code of Washington, secs. 65.16.130, .140, and .150 (1994).

15. O.R.S. secs. 193.310 to .360.

the notice of bond sale is not quite equivalent to the more common legal notices which appear in the newspapers for public hearing and comment.

As will be seen in chapter 5, even without statutory language, cable television and electronic media in Hawaii are already being utilized for broadcasting some public notices. At the moment, these media supplement the newspaper's publication of legal notices and in the case of Hawaii FYI, while there is hope for more kinds of notices to appear on screen, for the present, only public bidding and procurement notices are in prototype form.

5. *State Registers.*

The issue of publication of notices in newspapers and possible alternate media raises the question whether a state register would be a suitable medium for publication of notices (among other kinds of government information). For this reason, the Bureau reviewed an earlier LRB study of Administrative Codes, Registers, and State Blue Books by Takayama and an updated survey report of other states' registers.¹⁶ Exhibit 4-A summarizes the information in chart form.

In most other states the Secretary of State generally is the officer who produces the register. In Hawaii, the Lieutenant Governor would be the equivalent agency most similar in function to the secretary of state in other states. Takayama said: "In Hawaii, the Lieutenant Governor is unquestionably the most logical agency to prepare the register if for no other reason than that many documents which are commonly included in state registers are required by law to be filed in the Lieutenant Governor's office."¹⁷

Among states which publish registers, frequency ranges from two times a week, or 100 issues per year (Texas), weekly (12 states); biweekly or twice a month, or semi-monthly (12 states), or monthly (11 states).

Almost all states that produce registers offer some free subscriptions as well as paid subscriptions. Pennsylvania offers no free subscriptions and has 12,900 paid subscriptions. At the other extreme, Mississippi has no paid subscriptions and offers 350 free subscriptions.

The per issue price varies from lows of \$1.50 per issue (Tennessee's monthly and New York's weekly) and \$2.00 per issue Pennsylvania's and Kentucky's weeklies) to a high of \$15.00 per issue for Iowa's biweekly, and \$30 per monthly issue in Idaho.

The number of pages per issue also varies among the states because the contents may include only notices of hearings while other registers might include the full text of the proposed rules as well as the full text of the rules when finally adopted. Frequency of publication may also affect the number of pages in each issue. South Dakota's weekly contains only notices and has about 4 pages per issue while Idaho has 670 pages per issue and Illinois, 389 pages, because Idaho and Illinois publish full texts of proposed and adopted rules, among other things.

16. The following information was derived from the 1994-1995 State and Federal Survey by the National Association of Secretaries of State, Administrative Codes and Registers Section. Very little change seems to have occurred since the publication of Takayama's 1989 report. Of fifty states, twelve do not produce a register.

17. Ken H. Takayama, *Pathfinders: Administrative Codes, Registers, and State Blue Books*. Legislative Reference Bureau (Honolulu: 1989), p. 113.

Exhibit 4-A**CHARACTERISTICS OF STATES WITH STATE REGISTERS**

	Frequency of Issue	No. of Paid Subscribers	No. of Free Subscribers	Price per Issue	Price per Subscription	Avg. Pgs. per Issue				Comments
ALABAMA	M	196	22	5.00	50.00	55				
ALASKA	W	108	19	-	90.00	50				
ARIZONA	M	258	220	3.00	36.00	32				
ARKANSAS	-	241	3	3.50	40.00	12				
CALIFORNIA	W	-	-	-	-	-				
COLORADO	-	-	-	-	-	-				
CONNECTICUT	-	-	-	-		-				
DELAWARE	-	-	-	-	-	-				
FLORIDA	W	2,504	188	6.00	165.00	153				
GEORGIA	-	-	-	-	-	-				
HAWAII	-	-	-	-	-	-				
IDAHO	M	176	67	30.00	200.00	670				
ILLINOIS	W	591	208	10.00	290.00	389				
INDIANA	M	300	700	10.00	110.00	200				
IOWA	BI-W	270	850	15.00	221.00	100				
KANSAS	W	1,000	500	2.00	60.00	40				
KENTUCKY	M	-	-	-	48.00	300				
LOUISIANA	M	1,082	60	10.00	110.00	138				

OTHER STATES

	Frequency of Issue	No. of Paid Subscribers	No. of Free Subscribers	Price per Issue	Price per Subscription	Avg. Pgs. per Issue				Comments
MAINE	-	-	-	-	-	-				
MARYLAND	BI-W	1,545	256	3.00	90.00	90				
MASSACHUSETTS	-	-	-	-	-	-				
MICHIGAN	M	800	894	-	95.00	175				
MINNESOTA	W or TRI W	950	150	3.50	150.00	60				
MISSISSIPPI	M	-	350	-	-	5				
MISSOURI	2X/M	852	40	5.00	56.00	173				
MONTANA	2X/M	132	99	12.50	300.00	130				
NEBRASKA	-	-	-	-	-	-				
NEVADA	-	-	-	-	-	-				
NEW HAMPSHIRE	W	130	164	-	55.00	12				
NEW JERSEY	BI-W	3,168	400	15.00	125*/215**	254				*2nd/**1st -Cls
NEW MEXICO	SEMI-M	125	5	12.50	275.00	66				
NEW YORK	W	1,800	600	1.50	40*/80**	130				*2nd/**1st-Cls
NORTH CAROLINA	2X/M	359	216	8.00	105.00	60				
NORTH DAKOTA	-	-	-	-	-	-				
OHIO	M	-	-	-	-	-				
OKLAHOMA	2X/M	135	102	7+SH	150*/200**	204				*4th/**1st Cls
OREGON	M	500	89	4.25	50.00	52				
PENNSYLVANIA	W	12,900	0	2	65.00	133				

TO SEE OR NOT TO SEE: PUBLIC NOTICE OF LEGAL ADS

	Frequency of Issue	No. of Paid Subscribers	No. of Free Subscribers	Price per Issue	Price per Subscription	Avg. Pgs. per Issue				Comments
RHODE ISLAND	-	-	-	-	-	-				
SOUTH CAROLINA	M	305	218	8.00	95.00	195				
SOUTH DAKOTA	W	137	171	-	20.00	4				
TENNESSEE	M	450	28	1.50	35.00	92				
TEXAS	100/YR, 2X/W	4,795	450	7.00	95.00	130				
UTAH	SEMI-M	146	33	5.63	135.00	152				
VERMONT	-	-	-	-	-	-				
VIRGINIA	BI-W	648	120	4.00	100.00	208				
WASHINGTON	2X/M	878	76	7.50	175.00	363				
WEST VIRGINIA	W	175	4	4.00	2.50	41				
WISCONSIN	SEMI-M	130	-	2.50	50.00	38				
WYOMING	INDEX ONLY									

Source: 1993-1994 Survey of Codes and Registers National Association of Secretaries of State

Some states have registers available in non-print media, microfiche or searchable databases. Idaho has a monthly register and online access. As of January 1, 1994, Idaho had 60 online subscribers. A few other states like Illinois and Maryland also have computerized access as supplements to a printed register.

6. *Literature Survey of Studies About Publication of Notices in Newspapers.*

In addition to a survey of other states' laws, and a review of state registers, the Bureau conducted a literature search of published reports on this topic. Only two studies were available, from Illinois and from Alaska.

In Illinois, a research assistant in the Illinois General Assembly's Legislative Research Unit examined the issue of the cost of legal notices for government units.¹⁸ The study for the Alaska State Legislature covers the issue of adequacy of dissemination of information via public notice for rural residents.¹⁹

In both states' research efforts, the problem of determining and obtaining an estimate of current newspaper advertising costs by state agencies proved difficult. According to the Alaska report: "We were not able to obtain an estimate of what is currently spent by state agencies for the advertising of proposed regulatory changes. These costs are deeply embedded in the state accounting system along with classified advertising expenditures for recruitment notices, requests for proposals, announcements of the availability of grants, etc."²⁰

In Illinois, an estimate of the amount spent by local government each year on public notices was estimated by multiplying an approximate average expenditure per resident by the 1990 population of incorporated places in Illinois to arrive at an estimated expenditure of \$2,707,781 with the caution that it was not possible to obtain figures from the largest city, Chicago, which "...omission could bias the estimated statewide cost per person".²¹ As to state costs, Turek reported that state expenditures from July 1, 1989 to May 14, 1990 to the official state paper was \$26,049 which did not include the cost of notices in other state and national papers. Turek reported that "To make an accurate calculation of all state expenditures for legal notices, a separate state billing code for published notices would be needed. ...There is a Comptroller's Uniform Statewide Accounting System (CUSAS) code for state advertising...[but] as the name implies, it includes the cost of other media communications besides advertising."²² Illinois is also examining the preparation of a weekly Illinois Procurement Bulletin, to be mailed to interested parties and distributed to each state agency, county clerk, and public library. Procurement information in the bulletin would also be kept in a computer database for access by vendors. State construction agencies could

18. Gayle M. Turek, "Cost of Legal Notices for Government Units" Illinois General Assembly, Legislative Research Unit, Research Response, Chicago, IL: May 22, 1990.

19. Brad Pierce, Public Notice of Regulation Changes in Alaska, Legislative Research Agency (Juneau: 1989).

20. Brad Pierce, Public Notice of Regulation Changes in Alaska, Legislative Research Agency (Juneau: 1989), p. 2.

21. Gayle M. Turek, "Cost of Legal Notices for Government Units" Illinois General Assembly, Legislative Research Unit, Research Response (Chicago: May 22, 1990), p. 3.

22. Turek, p. 3.

seek bids through the bulletin, or through an individual agency Construction Bulletin to be mailed on request to prequalified contractors and professional firms. While this proposal passed the Illinois House, it died in Senate committee. Other bills have attempted to reduce the number of public notices that government bodies must file and to authorize a "block" advertisement in a county newspaper.²³

Summary

The Bureau examined some other states' approaches to publication of legal notices. Several states define terms such as newspaper, and legal or public notice, and specify the qualifications of a legal newspaper. Other states name an official state paper which is used to print the state's legal notices for a specified period of time. Some states publish state registers which may contain the full text of legal notices and documents such as Attorney General opinions, court opinions, and proposed and adopted rules. Some states may publish only a brief listing of upcoming hearings or government notices with the full text of proposed or amended rules available elsewhere. Registers vary as to content and frequency of issue, among other things. Finally, a literature survey for studies on this topic found reports from only Alaska and Illinois.

23. Turek, p. 4.

Chapter 5

OPTIONS AND ALTERNATIVES ALTERNATIVES TO PUBLICATION OF LEGAL NOTICES IN NEWSPAPERS

Why Newspapers?

Newspapers of general circulation have been the preferred means of publishing public notices required by law over the years because newspapers have been the traditional medium of gathering and disseminating information. It was assumed that people are more likely to see a notice in the paper than, for example, notices which have been posted on a bulletin board of the State Capitol, the courthouse door, or in city hall. There are several advantages to the current method of newspaper publication of legal notices. For one thing, the turn-around time from realization of the need to publish a legal notice to the actual appearance in the newspaper can be very short, even less than a few working days in case of emergencies, at least for smaller ads of less than twenty column inches (longer legal ads require at least two weeks to typeset and proof before publication). Aside from the advantage of short advance notice before publication in a newspaper, there are the advantages of permanence of the printed word and concomitant verification, confirmation, or authentication of the words themselves. Newspapers appear frequently, such as daily or at least once a week, are readily available at street corners and shops, are inexpensive, and provide other news.

Against these advantages are some disadvantages such as the cost of legal advertisements, the limited number of newspapers in Hawaii, from which to choose to place an ad, the perceived difficulty of reaching all readers who need to be reached by mere publication of a legal notice, and the many statutory provisions that require notice to be given through the medium of newspapers, and through no other alternative medium. Many of these arguments have been made at one time or another for and against newspaper publication.

The rationale for the instant study was to evaluate the efficiency of the use of newspapers of general circulation as the sole form of public notices required by law with a view toward presenting other means of disseminating notices to the public which may be less costly, more efficient, or both.

It was impossible to segregate from the total expenses the cost of public informational notices which also are published for the benefit of citizens but are not statutorily required to be published in the newspaper. In fact it is likely that the majority of citizens do not differentiate between notices required to be published and those that are of informational rather than legal importance. The LRB survey responses included a comment that members of the public have been known to complain if not enough notice had been given by a government agency, and another comment that newspaper publication of legal notices is a waste of money and time because "no one reads those notices". It is difficult to know which is the more likely scenario among island residents without a statewide survey of newspaper readers.

The LRB survey did reveal that government agencies make every effort to contact prospective bidders, or providers of professional services, and the like by phone or mail, when it is known that a legal notice for these services is about to be published. These efforts include selecting certain days of the week for publication in the hope that the notice would get the widest circulation. Also, any member of the public who indicates he wants a notice

mailed to him can get one often free of charge, and told where a more detailed, bulky bid proposal, or text of an administrative rule can be borrowed or reviewed. However, there may be a few notices for which the government agency might not have a list of interested persons to whom a phone call or mail out form can be sent, because these persons cannot be identified ahead of time as fitting a certain characteristic, such as living in a particular neighborhood or belonging to a certain professional group. In these circumstances the persons who should be made aware of the government action which could affect their lives may not "notice" or read the published notice because it is buried, however unintentionally, in the vast amount of printed material in the newspaper.

Chapter 3 listed the costs to the State and the counties for newspaper publication of legal notices. In fiscal year 1994-1995 the cost of newspaper publication was \$3,386,151. In 1993-1994 the cost was \$2,408,735. The rationale for the Legislature's request for examination of the issue of newspaper publication of legal notices is the assumption that whatever the current cost, this cost can be reduced while still meeting the statutory mandates of legal notice. Given the overall costs of publishing all kinds of government notices in the newspaper, what are some ways to reduce the cost of publishing legal notices in newspapers?

Reduction of Costs

1. *Policy Changes*

A. *Notices that are not Mandated by Law.*

As was earlier noted, of the approximately \$3.3 million figure for 1994-1995 and \$2.4 million cost for 1993-1994 there is no further breakdown of the cost to publish legal notices as against the cost to publish informational or public notices. The Bureau's survey indicated that a number of public notices are published in the newspapers for citizen information forums, roadwork advisories, changes in park hours, etc. which are not usually mandatory notices. Therefore, if only statutorily mandated (legal) notices must be published in the papers, one way to reduce costs somewhat would be to eliminate the publication of notices that are not mandated by law.

B. *Hawaii Administrative Procedure Act (HAPA) Hearing Notices.*

Of those legal notices required to be published by law, notices of public hearings on administrative rulemaking activities were the type of notices most frequently mentioned by respondents to the Bureau's survey. The cost of these notices can be reduced if the size of the notice can be reduced. The Bureau's survey elicited several comments that the Attorney General required notices for the HAPA which were long, detailed, and costly.¹ Suggestions were for the Attorney General to reduce the summary language to be published in the newspapers for public hearings regarding administrative rules. The issue here is that of the adequacy of the notice that is published describing the substance of the proposed change.

1. Comments such as: "Have the AG reduce the summary language." "Cost can definitely be reduced by summarizing the proposed changes in less detail than is currently being done." "Indicate that notice is being given to hold a public hearing on date, at time, in the place to amend the (agency's) rules by amending (just list subchapter). Then advise them that copies may be obtained from (agency) and provide info for those wishing to testify."

Recent Changes to Section 91-3, *Hawaii Revised Statutes*²

Prior to 1989, section 91-3 specifically required agencies publishing notices of proposed rulemaking activities to include in the notice a "statement of the substance of the proposed rule". In 1982, the Supreme Court of Hawaii in *Costa v. Sunn*, 64 Haw. 389 (1982) invalidated certain administrative rules of the Department of Social Services and Housing saying that the "substance of the proposed rule" meant not merely the subject of it, but "an intelligible abstract or synopsis of its material and substantial elements". That is, a notice that contained "the headings of the new rules did not provide parties with sufficient information to fairly apprise interested persons with what is being proposed so they can formulate and present rational responses to the proposal".

In the wake of the *Costa* decision, public notices of proposed agency rulemaking actions became considerably more lengthy as agencies were forced to synopsise virtually all substantive changes in proposed rulemaking actions. A few years later, the prospect of turmoil in the State's administrative rules was increased significantly by the state Supreme Court's decision in *State v. Rowley* 70 H.135,764 P.2d 1233 (1988). In that decision, the court invalidated an administrative rule of the Department of Land and Natural Resources that prohibited nudity in state parks. The court found the rules invalid on the ground that the public hearing notices for the rules, which were adopted in 1971 and 1981, did not meet the standards established by the court in *Costa*, which had been decided after the state parks rules were adopted. As Takayama described it,

The *Rowley* decision was the first indication given by a state appellate court that the standards for public hearing notices for rulemaking established in *Costa* would be applied retroactively to rules adopted before the standards existed. The decision made all rules adopted by any agency prior to March 16, 1982 (the date of the *Costa* decision) vulnerable to invalidation based upon the insufficiency of the public notices. Further, because there was no statute of limitations applicable to actions challenging the sufficiency of public notices, all rules of all agencies which

2. Section 91-3, *HRS*, provides:

§91-3 Procedure for adoption, amendment or repeal of rules. (a) Prior to the adoption of any rule authorized by law, or the amendment or repeal thereof, the adopting agency shall:

- (1) Give at least thirty days' notice for a public hearing. The notice shall include:
 - (A) Either:
 - (i) A statement of the substance of the proposed rule adoption, amendment, or repeal; or
 - (ii) A general description of the subjects involved and the purposes to be achieved by the proposed rule adoption, amendment, or repeal; and
 - (B) A statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed at no cost to any interested person who requests a copy, together with a description of where and how the requests may be made; and
 - (C) The date, time, and place where the public hearing will be held and where interested persons may be heard on the proposed rule adoption, amendment, or repeal.

The notice shall be mailed to all persons who have made a timely written request of the agency for advance notice of its rulemaking proceedings, and published at least once in a

were adopted before the Costa decision would appear to have been vulnerable forever to legal challenge.³

Act 64, Session Laws of Hawaii 1989 (See Appendix D), was enacted to remedy this dilemma. The Legislature proclaimed that Act 64 had three purposes, namely to:

- (1) Expressly ratify and validate all administrative rules and rule amendments and repeals that were filed pursuant to section 91-4, *Hawaii Revised Statutes*, before the close of business on December 31, 1986, to the extent that those administrative rules and rule amendments and repeals shall be considered to be free from any noncompliance with the statutory procedural requirements for the adoption, amendment, or repeal of administrative rules;
- (2) Provide clarifying statutory wording that will expressly enable agencies to publish notices that generally describe the subjects involved and the purposes

newspaper of general circulation in the State for state agencies and in the county for county agencies.

- (2) Afford all interested persons opportunity to submit data, views, or arguments, orally or in writing. The agency shall fully consider all written and oral submissions respecting the proposed rule. The agency may make its decision at the public hearing or announce then the date as to when it intends to make its decision. Upon adoption, amendment, or repeal of a rule, the agency shall, if requested to do so by an interested person, issue a concise statement of the principal reasons for and against its determination.

(b) Notwithstanding the foregoing, if an agency finds that an imminent peril to the public health, safety, or morals or to livestock and poultry health requires adoption, amendment, or repeal of a rule upon less than thirty days' notice of hearing, and states in writing its reasons for such finding, it may proceed without prior notice or hearing or upon such abbreviated notice and hearing as it finds practicable to adopt an emergency rule to be effective for a period of not longer than one hundred twenty days without renewal.

(c) The adoption, amendment, or repeal of any rule by any state agency shall be subject to the approval of the governor. The adoption, amendment, or repeal of any rule by any county agency shall be subject to the approval of the mayor of the county. The provisions of this subsection shall not apply to the adoption, amendment, and repeal of the rules and regulations of the county boards of water supply.

(d) The requirements of subsection (a) may be waived by the governor in the case of the State, or by the mayor in the case of a county, whenever a state or county agency is required by federal provisions to promulgate rules as a condition to receiving federal funds and such agency is allowed no discretion in interpreting such federal provisions as to the rules required to be promulgated; provided that the agency shall make such adoption, amendment, or repeal known to the public by publishing a statement of the substance of the proposed rule at least once in a newspaper of general circulation in the State prior to the waiver of the governor or the mayor.

(e) No adoption, amendment, or repeal of any rule shall be invalidated solely because of the inadvertent failure to mail an advance notice of rulemaking proceedings or the inadvertent failure to mail or the nonreceipt of requested copies of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed. Any challenge to the validity of the adoption, amendment, or repeal of an administrative rule on the ground of noncompliance with statutory procedural requirements shall be forever barred unless the challenge is made in a proceeding or action, including an action pursuant to section 91-7, that is begun within three years after the effective date of the adoption, amendment, or repeal of the rule.

3. Ken H. Takayama, *Pathfinders: Administrative Codes, Registers, and State Blue Books*. Legislative Reference Bureau, Report No. 7 (Honolulu: 1989), p. 6-7.

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to be achieved by a proposed rule, together with a description of where and how free copies of the proposed rule to be adopted, the proposed rule amendment, or the rules proposed to be repealed may be requested, instead of including in the notice only a statement of the substance of the proposed rule; and

- (3) Impose a three-year limitations period on challenges to the validity of any adopted administrative rule adoption, amendment, or repeal on the basis of noncompliance with the procedural requirements for rule adoption, amendment, or repeal.⁴

As adopted, Act 64 amended section 91-3 to require that public notices:

- (1) Be published at least once in a newspaper of general circulation in the State, and be mailed to all persons who have requested in writing advance notice of rulemaking proceedings;
- (2) Be given at least 30 days before the public hearing;
- (3) Include either:
 - (A) A statement of the substance of the proposed rule; or
 - (B) A general description of the subjects involved and the purposes to be achieved by the proposed rulemaking action; and
- (4) A statement that a copy of the rulemaking proposal will be mailed at no cost to any interested person who requests a copy, along with a description of where and how the requests may be made.⁵

Despite the fact that the Legislature has given agencies the option under section 91-3(a)(1)(A)(ii) to simply publish a general description of the subjects of the proposed rulemaking actions, many agencies continue to publish the much lengthier versions stating the substance of the proposal under subsection (a)(1)(A)(i). How much this is being done on the advice of the Attorney General (as opposed to ignorance on the part of the agencies) is simply not known. Factors causing the Attorney General to advise departments to continue to publish more detailed notices of proposed rulemaking actions may include, among other things, the complexity of the proposed changes. A shorter notice, even with the offer of a free copy of the full text of the rulemaking proposal cannot guarantee comprehension and appreciation of the rule change by affected parties.

The Attorney General's advice to print a more substantial statement of the proposed rule may also be influenced by the nature of the interaction between an agency and its clientele--some agencies by virtue of their responsibilities and duties may have more public contact than others, and it behooves that agency to have its proposals well understood by its public clients. To advise all agencies to publish a shorter notice, along with the offer of a free copy of the rulemaking proposal, may not always be acceptable given a specific set of facts.

4. 1989 Haw. Sess. Laws, Act 64, section 1.

5. Ken H. Takayama, Pathfinders: Administrative Codes, Registers, and State Blue Books. Legislative Reference Bureau, Report No. 7 (Honolulu: 1989), p. 7.

While the Bureau does not purport to instruct the Attorney General on the advice that should be given to its agency clients, one thing is abundantly clear. Unilateral action on the part of the Attorney General to advise clients to publish the shorter form of public notices of proposed rulemaking actions under section 91-3(a)(1)(A)(ii) whenever possible could reduce amounts spent on public notices in the area where notices are now among those most frequently required to be published by law. Preparation and publication of shorter notices presumably would also result in savings of staff time on the part of agency personnel who prepare the notices and Deputy Attorneys General who review them.⁶

C. *Reduce Number of Times a Notice Must be Printed.*

Existing statutes that require more than one publication of a particular notice could be amended to reduce the number of publications to one time only. Reducing the required frequency of publication could reduce costs. Reducing the frequency of publication would require the amendment of every section of the Hawaii Revised Statutes that requires the publication of any notice more than once.

2. *Alternative Newspaper Publication Methods.*

A. *A Weekly Supplement to the Newspaper in the Form of an Insert.*

One of the respondents to the Bureau's survey had this suggestion: "Coordinate all notices statewide that must be published and print insert...to be delivered with newspapers on a regularly scheduled basis...I think there is a lot of publishing that is done so the State could probably fill a 4-page insert."

This option uses the newspapers themselves as the conduit for distributing an advertising supplement⁷ containing all legal notices for the State (and counties, if so desired). Readers are already familiar with inserts like that issued by the University of Hawaii's continuing education programs or its schedule of summer courses, not to mention the advertising supplements used by local merchants.

The advantage of a newspaper supplement is having the larger circulation of the newspaper and its wide distribution system, giving published notices a broader reach. To implement a newspaper supplement approach, a coordinator would likely be needed to establish deadlines and schedules for all agencies to follow to meet a unified publication schedule. A coordinator could also apply a classification system to the notices in order to group together like notices. By consolidating similar notices to avoid repetitious language, column inches could be saved. Another useful feature of a supplement is that it can be separated easily from the body of the newspaper and kept for reference.

A tabloid is described as retail or display (not legal) advertising, and cost calculation requires the use of different rates. When compared to a full page (front and back) of a regular newspaper, a single tabloid sheet is described as having four "tab" pages. Page copy is prepared in camera ready form and would be sized to fill a tabloid sheet of four pages. The supplement can have as many pages as needed but in multiples of four. (In other words, by

6. The Attorney General conducts a notice-by-notice review of HAPA notices before publication and presumably is aware of the choices offered by with section 91-3(a)(1)(A)(i) and (ii).

7. Newspaper terminology uses "tabloid" instead of "insert" or "supplement" although these terms are used interchangeably in this report.

selecting a tabloid style, the advertisements will be made to fit without leaving a large empty area).

In addition to printing costs, there is a charge for insertion into the regular run of papers that has been chosen by the customer. Total cost would depend on the number of pages printed, the paper(s) in which the insert would be found, and other factors as well. The turnaround time for a tabloid is about eight working days, or one and a half weeks.

As one example of cost, a sixteen-page insert in the Honolulu Star-Bulletin for Monday, June 13, 1994, of the State's Review Commission on the State Water Code cost \$14,882.27.

B. A "Block" or Full Page Ad in a Newspaper.

This option also uses the newspaper as a medium and can reach its many subscribers and newstand purchasers. However, calculating its cost is not the same as for tabloid costs. The rates would be based not on retail (or display) advertising rates, but legal advertising rates. To assure the filling of a whole news page, perhaps enough legal and public notices would have to be accumulated until the total amount would fill a full newspaper page, approximately two hundred column inches. An alternative method might be to select a certain day, such as every Wednesday, when the State would guarantee the purchase of a full page of legal notices. In order to fill a whole page when a smaller number of legal notices are available in any given week, the counties could be invited to join if interested.

The cost of a full page ad was discussed in chapter 3, as ranging from \$4,270 to \$6,628 plus tax for the statewide dailies, the Honolulu Advertiser, and Honolulu Star-Bulletin. If a full page contains roughly 200 column inches and an average of 1,700 column inches (as reported in the survey) are needed each week, then about eight and one-half full pages would be purchased each week.

A one-time publication, at the lowest legal ad rate, would cost about \$36,295 (Honolulu Star-Bulletin rate times 1,700 column inches) while the high would be about \$56,168 (Sunday rate times 1,700 column inches) depending on the paper selected, per week, exclusive of general excise taxes.⁸ Since the number of column inches required each week is an estimate, this range of about \$36,000 to \$56,000 should be viewed only as a probable cost range.

Perhaps the biggest drawback to purchasing a full page of legal ads is the turnaround time. Every legal ad must be typeset and if an ad is larger than 20 column inches (approximately two sheets, 8 1/2 by 11 inches, typed double-spaced) material must be submitted two weeks in advance. Ads smaller than 20 column inches need one week to be typeset and proofed. While there may be advantages to consolidation and classification within a full page ad, timeliness of notice to the public and flexibility to the agency publishing the notice are also important. The current procedure of allowing each government agency to independently and separately arrange for the publication of individual ads, in a decentralized fashion gives more flexibility to the government agency, allowing it to prepare a legal notice on short notice if necessary. From the reader's point of view however, this decentralized process often, but not always, results in the scattering of legal notices which makes it difficult to find a specific ad even when it is expected to appear in the newspaper.

8. Rates per column inches based on new price list of fiscal year 1995-1996; see Exhibit 3-A, PL 96-03.

C. *Name an Official State Newspaper with Statewide Circulation.*

An alternative option copied from other states might be for the Legislature or the Department of Accounting and General Services to annually designate a newspaper having statewide circulation as the official newspaper for publication of all legal ads for all state agencies. Selection of the designated newspaper could be made through competitive bidding.⁹ This would eliminate the placing of ads in both a county paper and one of the statewide papers when a state government action would impact a particular county other than the City and County of Honolulu.¹⁰ It would also require the repeal of any statutes that require this form of public notice. An example of a notice which must be published in both one of the statewide papers and a local county newspaper is a notice for contested case hearing for loan delinquency for say, Hawaiian home lands in Hilo, where a notice is published in both the Advertiser and the Hawaii Tribune Herald. If only one statewide paper is expected to include all legal ads, an interested citizen would need to subscribe only to that paper, although this subscription would have to change each time the State designated a different publication.¹¹

3. *Register; Contracts Weekly*

A. *A Weekly State Register Printed by the State or by a Winning Bidder may be used to Publish all State Legal Notices in Full Text or in Summary Form.*

The Federal Register, with which most readers are familiar, is issued daily by the federal government and governed by 44 USCA sec 1503 et seq. and relevant rules. Every federal agency must transmit an original and duplicate copy of rules (proposed, adopted, and emergency), executive orders, proclamations, contracts, opinions, and other information to the Office of the Federal Register, for publication by the Government Printing Office (GPO). Subscription price to the Federal Register is \$444 per year and \$6 per issue. As of January 3, 1994, there were 20,421 paid subscribers and 11,527 free subscribers. Anyone who has access to the Federal Register can obtain information about government actions at the federal level. The Federal Register is also indexed for the benefit of readers.

Chapter 4 includes a summary of characteristics of state registers as cumulated in a 1994-1995 survey by the National Association of Secretaries of State. A state register has been suggested for Hawaii, fashioned after the Federal Register or other state registers. A state register if not printed in-house by the government, can be contracted to a printer and distributed for a fee. There is at least one commercial publisher (see Weil Publishing Company below) which may enter the register publication business in Hawaii as the producer of an unofficial state register containing notices as well as other kinds of government information.

9. As one survey respondent suggested: "Utilize one daily newspaper with a statewide circulation instead of placing ads in county newspaper with a county wide circulation."

10. The Honolulu Advertiser or Honolulu Star-Bulletin are both appropriate county newspapers for the City and County of Honolulu. A single publication in either the Honolulu Star-Bulletin or Honolulu Advertiser would meet the publication requirements of section 91-3 and 92-41, Hawaii Revised Statutes, for the City and County of Honolulu. Ag Op. 89-4, April 20, 1989.

11. It should be noted that the naming an official state paper in which to publish all legal ads of the state government would continue, not eliminate, the publication of each county's legal notices of county actions,

For purposes of this report, publication in a newspaper, whether as a weekly insert supplement or a whole newspaper ad would not qualify as a register as that term is generally known. A register presumes a separate publication, and, whether produced by a government agency or on contract by a private entity, is devoted solely to the publication of government notices, information, or other documents. The contents of registers often include more than notices. They may include governor's proclamations, attorney general opinions, and appellate court opinions. A state register containing more, rather than less, government information is likely to have a better cost/benefit ratio and be of interest to more subscribers. On the other hand, a register like South Dakota's list of notices averaging only four pages each week might also serve as a useful supplement to notices in newspapers. (See Exhibit 5-A).

However a state register that is comprehensive in its coverage and issued at least weekly might be the medium of dissemination for all legal notices of the State. In that case, the funds now being spent for newspaper publication could be used instead for production of the register. If a state register is published as a supplement to the continued use of newspapers for the publication of notices, then government incurs a second cost: first, for the newspaper publication and second, for the preparation, production, and distribution of the register.

B. Contracts Weekly.

Some states publish a subset of notices that are likely to be of interest only to a select group of professionals or service providers in the form of contract or procurement bulletins, that list requests for bids, requests for professional services, notices of final settlement, and similar topics. All other types of notices, such as hearing notices for administrative rules, contested case hearings, and other notices can continue to be printed in the newspapers. Hawaii has a commercially produced Bid Service Weekly (Trade Publishing) which serves this function. A few mainland states produce a separate contracts publication.

The Bureau inquired into the production of two contract weeklies, one in Virginia and the other in Maryland. In Maryland, the Contract Weekly was started as a separate publication in 1992 by the Division of State Documents of the Office of the Secretary of State, because some subscribers to the register were more interested in procurement or contractor-type information that was being published biweekly in the Maryland Register. These ads are not duplicated in the newspapers. Today there are 2,700 subscribers paying \$125/yr for the contracts weekly. Subscribers to the Maryland Contract Weekly have different informational needs than other subscribers to the register because they may be in construction, building trades, and the like. While prepared in-house in camera-ready form, the Maryland Division of State Documents contracts with a printer to put the documents into final form and with a mailing house to mail out the documents to subscribers.¹²

In Virginia the arrangement is a little different. The Virginia Business Opportunities VBO weekly is produced by the Executive Branch's Department of General Services, which is

public hearings, and the like, in newspapers of general circulation in the particular county such as the Tribune Herald, West Hawaii Today, Maui News, Molokai Dispatch, or Garden Island. Thus, county notices would still receive the same kind of treatment they currently receive.

12. Telephone interview with Robert J. Colborn, Director, Division of State Documents, Annapolis, Maryland, September 25, 1995.

also accessible online as VBO Online. The printed weekly VBO lists information on bidding opportunities of over \$5,000 with state agencies and institutions and many local governments. Entries in the weekly are arranged by main topics such as: Construction, Professional and non-professional services, Equipment, Consulting services, Sale of surplus property by auction, and the like. The weekly is printed on 8 1/2 x 11 sheets and subscriptions cost \$75 per year. There are an average of 12 pages per week with about 120-160 ads in each weekly issue. The VBO supplements and does not replace newspaper advertisements.¹³ Sample pages are duplicated in this chapter from both the Maryland (Exhibit 4-B) and Virginia (Exhibit 4-C) contract weeklies.

In Hawaii, the commercially produced Bid Service Weekly published by Trade Publishing Company is available for \$10 per single copy and \$455 per year. This publication lists information for general contractors and subcontractors in the following categories: Bid results; Postponements, Late arrivals, Completion notices; Presolicitation notices; Supplies, Services, and contract awards. State, Federal, and county projects are listed for Hawaii and the outer Pacific. By using the construction bidding service contractors can learn which company was the winning bidder for a job and allows subcontractors to prepare bids for jobs in a larger overall contract.

C. Weil Publishing.

Weil Publishing has expressed an interest in publishing a state administrative code¹⁴ and other register-like publications for Hawaii. A commercial publication of a register such as this one would be an unofficial publication and if it is published less frequently than once a week, the timeliness requirement for legal notices would be negated and citizens would have to continue to rely on legal notices published in other media that appear more frequently.

4. Electronic Media.

Several survey respondents suggested the use of electronic media for the dissemination of legal and public notices. Television, radio, cable, and Internet may all be utilized as supplements to the publication by print medium. As Chapter 4 indicated, examples of statutes allowing the use of television and radio broadcast of legal notices can be found in Oregon and Washington. Electronic media cannot entirely replace the print media for meeting the minimum statutory requirement of publication of legal notices without statutory amendments permitting these changes. It also does not have the level of permanence and verifiability that are among the benefits of printed notices discussed at the beginning of this chapter.

A. Cable Television as a Source of Government Notices.

Cable television franchise agreements are required to provide public, educational, and governmental channels. Cable television shows public local government activities such as county council meetings, legislative and other public hearings, and issue oriented talk shows.

13. Telephone interview with Cindy Wetherald, Interdevelopment Manager, Virginia Div. of Purchases and Supply, Richmond, Virginia, September 25, 1995,

14. An administrative code is a publication of a state's administrative agency rules. The equivalent federal publication is the Code of Federal Regulations. To date, the State of Hawaii has no administrative code.

On Oahu public notices are already being broadcast on public channels, such as 26, 24, and 22. To do so, the agency or entity seeking to broadcast the notice must prepare a written notice and mail or fax it to the local public access TV office (on Oahu, it is Olelo, the nonprofit, nongovernmental public access organization). This information would then be presented on the appropriate cable channel for public, educational, or governmental use. The cost of broadcasting the video on the cable channel would be free.

Realistically, notices broadcast on a cable station would have to be an additional or supplemental source of information to those being published in the newspapers, because not every household is connected to cable.¹⁵ Connection to hardware, availability to subscribers, users, or readers, pricing of the medium, reliability, and uniformity of appearance of the notice, readership (or viewership), and so on can all affect policy considerations when selecting the standard medium for the message.

The researcher has seen at least one notice of a public hearing on channel 24. It contained the subject of the hearing, place, date, and time, and would have required a quick note-taking effort because the screen changed a few seconds later to the next regularly programmed event.¹⁶

B. Notices on the Internet.

Bids and procurement notices can be published on Hawaii's FYI network by the Department of Budget and Finance's Information and Communications Services Division (ICSD) which has assumed responsibility for Hawaii FYI. The notices will be the same as appear in print in the newspaper, but will remain on Hawaii FYI until the bid opening day. Anyone with a personal computer and modem has access to this information, but only bids and procurement notices were selected for the prototype because the intended users, consultants, vendors, and contractors, are more likely than the general population to have the equipment and the interest to access this kind of information. Public libraries also can provide computer access to Hawaii FYI. This would promote the goal of reducing the State's cost of publishing notices in the newspapers and eventually, if staffing increases permit and necessary amendments to the statutes are made, other notices such as hearing notices and the like could also appear on Hawaii FYI. Users of the Internet have had access to a home page to read these bid and procurement notices since mid September, 1995.¹⁷

Policy Considerations

It was evident from the Bureau's survey and interviews that government agencies go well beyond the call of duty to make a good faith effort to notify the public about any and sundry kinds of upcoming government actions. Of course any legal notice that is mandated

15. In a recent study conducted for Olelo of the 200,000 households on Oahu connected to cable, fifty percent reported tuning in to one or more Olelo stations in the last month. Telephone interview with Mickey Wittig, Community Relations Director, Olelo, October 11, 1995.

16. Olelo reported that these notices remain on screen approximately ten seconds and repeats in cyclical fashion all day, every day until the date of the event, at which time the notice is removed. Telephone interview Kealii Lopez, Operations Director, Olelo, October 10, 1995.

17. Telephone interview, Al Fu, Branch Chief, Information Management, Information and Communications Services Division, Department of Budget and Finance. October 17, 1995.

to be published for a certain number of days over a certain period of time in a newspaper of general circulation is published as required by law. Above and beyond that however, government agencies notify by mail and telephone many vendors, service providers, and others when these individuals are known, about legal notices which are about to be published. In addition, informational notices are also published in as wide as manner as possible in order to reach as many people as possible. If people do not become aware of a pending government action, it is possible that:

- (1) The newspaper was not perused carefully because legal ads are not grouped together by similar topic as classified ads are; and
- (2) Legal notices were not read regularly, because some ads appear only once.

A critical legislative policy consideration with regard to the publication of legal notices is, whether government agencies should be encouraged to give only the minimum publication notice required by law in order to minimize costs. Alternatively should agencies promote the spirit of public notice by giving legal notices the widest dissemination possible?

To date, for better or worse, the course of action followed by state agencies has generally been the latter. It goes without saying that all things being equal, efforts should be made to provide the same amount of notice at less cost. The harder question is whether, and if so to what extent, tradeoffs should be made to reduce the amount or extent of notice given simply to reduce cost. As is true of many public policy issues, there are many variables and no perfect answers.

As has been reported here, there are already other media such as Hawaii FYI and cable television that also carry some and certain kinds of notices that appear in newspapers. While a variety of sources for legal notices is useful to all residents, citizens should be able to rely with regularity and consistency, on at least one medium for public notices. Which particular source is less important than having one primary and verifiable source.

In addition to the factors of wide dissemination and a primary, regular source, legal notices must be timely and available to the citizen at relatively low cost. Electronic notices are not yet widespread and available to every household. Consolidated legal notices in the form of a weekly full page newspaper ad or a tabloid supplement have different turnaround days which can affect timeliness, even if costs were comparable. Therefore, while it may be true that some cost saving measures can be realized by selecting one medium over another, the Legislature must examine whether, given the medium and method selected to give notice, will the public's need for adequate notice continue to be served, and if so, to what degree?

Summary

Assuming the cost of publishing public notices in newspapers can and should be reduced, there are several approaches that may be taken immediately.

A portion of the cost can be eliminated by not publishing any notice which is not mandated by statute and is merely published for information. Another policy change with immediate cost savings would be for agencies to use the option permitted by section 91-3(a)(1)(A)(2), *HRS*, for all notices of proposed rulemaking actions requiring publication of only a general description of the subjects of the rulemaking action (and making copies of the full text of the proposal available at no cost. Still another approach would be for the Legislature or other state official to designate a single newspaper which shall be the official

OPTIONS AND ALTERNATIVES

publisher of legal notices for the State. Selection could be made on the basis of competitive bidding.

Since multiple publication of a notice increases the cost of newspaper publication, another approach would be to amend all statutory provisions to reduce the number of times a notice must be published to one time only.

There are other approaches which would continue to use the newspapers and benefit from their wide circulation, such as a weekly tabloid insert or a full page block purchase in the newspaper.

If the newspapers are not to be the primary source of notices except for emergency notices and those which must appear daily for a certain number of days (or other variant), there are other options including the production of a state register and a contracts weekly. A state register could contain additional government material instead of only notices, which would serve a wider audience. A contracts weekly would be a separate publication for a special audience interested in bids and procurement notices only.

Electronic media such as cable television's bulletin board notices currently supplement to a limited degree the legal notices that appear in newsprint. Bid and procurement notices have been selected for a prototype on Hawaii FYI. Eventually, the Hawaii FYI system could include other types of notices and replace what appear in the newspapers, if statutes are amended to permit it, there is greater public reliance on the FYI system instead of newspapers, and residents' access to computers with modems becomes more widespread.

Exhibit 5-A

REGISTER

South Dakota Legislative Research Council



Volume 22

Monday, 8:00 a.m., September 18, 1995

A COPY OF EACH REGISTER IS FILED IN THE OFFICE OF THE SECRETARY OF STATE.

NOTICES OF PROPOSED RULES (The date in parentheses is the date the rules were filed in the Legislative Research Council):

Department of Game, Fish and Parks (September 12, 1995) intends to adopt **EMERGENCY** rules to enable the department to modify the numbers of deer permits made available as leftover licenses during the 1995 West River deer season in response to an unforeseen loss of whitetail deer to disease in certain West River units during the late summer. The general authority for this rule, as cited by the department, is SDCL 41-2-18 and 41-8-1.

A copy of the proposed rules may be obtained from the Secretary of the Department of Game, Fish and Parks, 523 East Capitol, Pierre, South Dakota 57501.

FILINGS IN THE SECRETARY OF STATE'S OFFICE:

Administrative Rules:

DEPARTMENT OF REVENUE repealed the definition of suburban area, ARSD 64:06:02:34.04, and returned the text of § 64:06:02:50 pertaining to pawnbrokers to the

language it contained prior to the amendment of July 23, 1995 (See 22 SDR 6).

History--Notice: 22 SDR 23, August 7, 1995

Hearing: August 31, 1995

Filed: September 11, 1995

Effective: October 1, 1995

DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES: BOARD OF MINERALS AND ENVIRONMENT

incorporated 1994 federal standards governing hazardous waste, ARSD 74:28:21:02, 74:28:22:01, 74:28:23:01, 74:28:24:01, 74:28:25:01, 74:28:26:01, 74:28:27:01, 74:28:28:01, and 74:28:30:01.

History--Notice: 22 SDR 1, June 27, 1995

Hearing: August 17, 1995

Filed: September 12, 1995

Effective: October 2, 1995

Note: A copy of the rules may be obtained directly from the above agencies. Write to the agency at the address given under "Notices of Proposed Rules." There is no charge for proposed rules. The following agencies have permission from the Interim Rules Review Committee to charge for adopted rules: the Division of Insurance, the Cosmetology Commission, the State Board of Examiners in Optometry, the State Plumbing Commission, the Board of Nursing, the Department of Social Services, the State Electrical Commission, the South Dakota Board of Pharmacy, the Real Estate Commission, the Gaming Commission, the Department of Commerce and Regulation for commercial driver licensing, the Department of Labor for Article 47:05, and the Department of Revenue.

REMINDER OF HEARINGS SCHEDULED:

- | | | |
|----------|---|---|
| 9-20-95 | Commerce and Regulation:
Board of Medical and
Osteopathic Examiners | Fees and continuing education for respiratory care therapists; current certificate examination and continuing education for occupational therapists; examination fee for physical therapists; application process and appearance requirement for physicians; 22 SDR 27. |
| 9-20-95 | Commerce and Regulation:
Board of Nursing | Licensure of clinical nurse specialists; 22 SDR 35. |
| 9-28-95 | Personnel: Law
Enforcement Civil Service | Minimum qualifications for appointment; tests for color perception; commissioner as evaluation of applicants; 22 SDR 23. |
| 9-28-95 | Transportation | Speed zone in Britton, Marshall County; 22 SDR 31. |
| 10-2-95 | Commerce and Regulation:
Board of Accountancy | Certificate and application procedures for foreign accountants; examinations; firm permit fees; continuing education; update of standards; equivalent quality reviews; 22 SDR 39. |
| 10-4-95 | Environment and Natural
Resources: Board of
Water Management | Compliance deadline for underground storage tanks; revision of remediation criteria for petroleum-contaminated soils; 22 SDR 39. |
| 10-4-95 | Education and Cultural
Affairs: State Library | Access to State Library; deletion of film services rules; appeal process for grant applications; 22 SDR 40. |
| 10-12-95 | Commerce and Regulation:
Nursing Home
Administrators | National examination fee; time limit on relicensure; requirement for bachelor's degree by 1997; letters of recommendation; clarification; 22 SDR 32. |

RULES REVIEW COMMITTEE MEETING:

The Rules Review Committee is scheduled to meet at 9:30 a.m., October 18, 1995, in LCR 1 and 2, State Capitol, Pierre. Rules with hearings scheduled before that date that have not already been reviewed will be on the agenda. Agencies are asked to have a representative present at the meeting to give background information on their rules.

The South Dakota Register, ISSN 0191-1104, is published by the South Dakota Legislative Research Council pursuant to SDCL 1-26A-1. Subscriptions to Volume 22 are \$20. Make checks payable to "State of South Dakota" and mail to the Legislative Research Council, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070.

Exhibit 5-B

Maryland

Issue Date: September 12, 1995
Volume 4 • Issue 37

Contract Weekly

© Division of State Documents • Office of the Secretary of State

Contents of the Contract Weekly

State Solicitations - Maryland law requires that notice of all State contracts valued above \$25,000 be published in the Contract Weekly. State agencies may also publish notice of contracts valued below \$25,000.

County/Municipal Solicitations (New Feature) - Maryland law permits counties and municipalities to publish solicitation notices in the Contract Weekly. Any contract valued above \$500 may be advertised.

Contract Awards - Award of State contracts valued above \$25,000 must be published in the Contract Weekly. State emergency and sole source contracts valued above \$10,000 must also be reported. Counties and municipalities may publish award notices.

State Board of Contract Appeals - Synopses of all published decisions issued by the State Board of Contract Appeals appear regularly.

Contract Weekly Organization

Contract notices are organized under two separate headings: Solicitations and Awards. All solicitation and award notices are arranged by procurement category. Within each of the nine procurement categories, State notices are listed first, followed by county/municipal notices.

Procurement Categories

- 1 Architectural and Engineering Services
- 2 Commodity/Supply
- 3 Construction
- 4 Energy Performance
- 5 Information Processing and Telecommunications
- 6 Leases (Real Property)
- 7 Maintenance
- 8 Revenue Generating
- 9 Services

Understanding Contract Notices

Contract ID Number - Each contract is assigned a unique identification (ID) number. When contacting an agency, refer to the contract by its ID number.

Description - Contract descriptions are brief. For further information, call the soliciting agency.

Place of Performance - Each notice will identify the geographic locality where the work is to be done.

Bid/Proposal Due - State contracts valued above \$25,000 are required to give at least 20 days notice. County and municipal notices must give at least 15 days notice. If there is a pre-bid or pre-proposal conference, its date and time will be listed. Although attendance at pre-bid conferences is not mandatory for State contracts, potential bidders are strongly urged to attend.

Contact Person - Each State contract notice lists a knowledgeable person to call for additional information.

Minority Business Enterprises

Minority businesses are encouraged to respond to solicitation notices.

Individuals With Disabilities

Call V 410/974-2486, TT 410/333-3098, or FAX 410/974-2546 whenever you need assistance.

No Warranties

The State of Maryland does not make any express or implied warranties with regard to the Maryland Contract Weekly. Neither the State, nor its officers, employees, or agents, will be liable for any damages resulting from the failure of any solicitation or other notice reaching the subscriber in time for preparation and timely submission of a bid or proposal, whether these damages be direct, consequential, or incidental, including but not limited to damages for lost profits, and whether claims arise in tort or contract.

This issue includes all contract notices filed as of the closing date and hour of the issue.

Robert J. Colborn, Administrator
Division of State Documents

NOTICE

\$10,000 Contract/\$100 Political

Contribution Disclosure

Bidders and existing contractors are reminded that the provisions of Article 33, Sections 30-1 through 30-4 of the Annotated Code of Maryland require that every person that has done business of \$10,000 or more w/the state, a county, incorporated municipality or other political subdivision in a calendar year is required to file, by February 1 of the following year, a report of political contributions in excess of \$100 to candidates for elective office in the state. In addition, a business entering into contracts or leases with the state totaling \$100,000 or more in a calendar year is required to file a list with the name and address of any resident agent of the business, each officer of the business, and each person who has beneficial ownership of the business, within 30 days of when the total value of the contracts or leases reaches \$100,000. Call the Office of the Secretary of State at 410-974-5521 to receive a form or to file.

SOLICITATIONS

1 Architectural & Engineering Services

County/Municipal

ID No: 106-96
Desc: Westside Community Center Consulting Services - Feasibility Study
Location: Salisbury, Wicomico, Maryland
Bids/Prop Due: 2 Oct 95, 11AM
PreBid/Prop Conf: 12 Sep 95, 2PM
Plans/Specs: -0-
Call: Carol Turner 410-548-3190
Agency: City of Salisbury

2 Commodity/Supply State

ID No: 001IT800258
Desc: 58 Flat Files for State Highway office in Lanvale, MD
Location: Lanvale, MD Western Maryland Region
Bids/Prop Due: 3 Oct 95, 2:00 pm
Call: Karen Alder 410-225-4616
Agency: General Services

ID No: 001IT800264
Desc: Automated Mail Inserter, Annapolis, MD, installed
Location: Annapolis
Bids/Prop Due: 3 Oct 95, 2:00 pm
Call: George Miller 410-225-4617
Agency: General Services

ID No: 001IT800288
Desc: Printing, assembly and mailing of tax coupon books and related items, various quantities
Location: Annapolis, MD
Bids/Prop Due: 3 Oct 95, 2:00 pm
Call: Michael Haloskey 410-225-4426
Agency: General Services

ID No: 001IT800289
Desc: Writing, typesetting & design of Health Newsletter, quantity - 4 issues, 8 pgs. per issue. Printing of Newsletter, 8 1/2 x 11, 8 pgs, saddlewire, 2 colors, quantity - 4 issues, 85,000 per issue
Location: Baltimore MD
Bids/Prop Due: 3 Oct 95, 2:00 pm

Call: Michael Haloskey 410-225-4426
Agency: General Services

ID No: 001IT800290
Desc: Design, Typesetting and Composit Film for Calendar 4 Color Process - 11" x 8 1/2" - Printing 11" x 8 1/2" Calendar, 4 Color Process, Quantity 120,000 copies
Location: Baltimore, MD
Bids/Prop Due: 3 Oct 95, 2:00 pm
Call: Michael Haloskey 410-225-4426
Agency: General Services

ID No: 10055-Z
Desc: Long block assemblies remanufacturer
Location: Baltimore
Bids/Prop Due: 5 Oct 95, 2 pm
Call: Pat Cavanagh 410-333-3532
Agency: Mass Transit Admin.

ID No: 196017-H
Desc: Furnish & deliver wire rope
Location: Baltimore
Bids/Prop Due: 3 Oct 95, 11 am
Call: Ray Mack 410-631-1010
Agency: MD Port Admin.

ID No: 196019-H
Desc: Furnish & deliver covert surveillance equipment for MPA Police Dept.
Location: Baltimore
Bids/Prop Due: 5 Oct 95, 11 am
Call: Ray Mack 410-631-1010
Agency: MD Port Admin.

ID No: 77854-L
Desc: Reactive ion etching system needed for general microfabrication laboratory use
Location: College Park
Bids/Prop Due: 3 Oct 95, COB
Call: Mary Ann Zimmerman 301-405-5818
Agency: Univ. MD College Park

ID No: 78550-G
Desc: Semi-annual requirements for Gilbert Ease recycled paper
Location: College Park
Bids/Prop Due: 3 Oct 95, 11 am
Call: Dionne Jacobs 301-405-5829
Agency: Univ. MD

ID No: 78553-G
Desc: Annual requirements 1 & 2 color printing
Location: College Park
Bids/Prop Due: 4 Oct 95, 11 am

AWARDS

AWARDS GLOSSARY

Types of Contracts:

FP	Fixed Price
CPIF	Cost Plus Incentive Fee
CPFF	Cost Plus Fixed Fee
CR	Cost Reimbursement
FPI	Fixed Price Incentive
RG	Revenue Generating

Procurement Methods:

CSB	Comp. Sealed Bidding
CNUB	Comp. Negot. After Unsuccessful Sealed Bidding
SPP	Small Proc. Procedure
IA	Intergovernmental Agreement
EM	Emergency
RO	Renewal Option
AEA	A/E Act
CSP	Comp. Sealed Proposals
SS	Sole Source
PP	Preference Purchase
EX	Expedited

1 Architectural & Engineering Services

State

ID No: 78002-F

Desc: Project Nos. UP-094-002-IDC & UP-094-003-IDC. Indefinite delivery contract agreement to provide professional architectural design services for various new construction & renovation projects on as need basis at UMCP. Services provide Civil/Structural Engineering Design & Survey Services; Mechanical, Electrical, Plumbing Design & Engineering Services for multiple design projects.

Location: College Park

Type of Contract: FP

Proc Method: AEA

Awardee: E-B-L Engineers Inc., Timonium, MD

Amount: \$400,000.00

Awardee: Spears/Votta & Associates Inc., Baltimore, MD

Amount: \$400,000.00

Awardee: Kibart Inc., Towson, MD

Amount: \$400,000.00

Awardee: Beavin Co., Baltimore, MD

Amount: \$400,000.00

Awardee: A. Morton Thomas & Associ-

ates, Rockville, MD

Amount: \$400,000.00

Award Date: 25 Aug 95

Call: William Armstrong 301-405-3372

Agency: Univ. MD College Park

ID No: 78002-F (continued)

Desc: Project Nos. UP-094-002-IDC & UP-094-003-IDC. Indefinite delivery contract agreement to provide professional architectural design services for various new construction & renovation projects on as need basis at UMCP. Services provide Civil/Structural Engineering Design & Survey Services; Mechanical, Electrical, Plumbing Design & Engineering Services for multiple design projects.

Location: College Park

Type of Contract: FP

Proc Method: AEA

Awardee: Purdum & Jeschke, Baltimore, MD

Amount: \$400,000.00

Awardee: Whitman, Reuardt & Associates, Baltimore, MD

Amount: \$400,000.00

Awardee: Mueller Associates II Inc., Baltimore, MD

Amount: \$400,000.00

Awardee: Whitney, Bailey, Cox & Magnani, Baltimore, MD

Amount: \$400,000.00

Awardee: James Posey Associates Inc., Baltimore, MD

Amount: \$400,000.00

Award Date: 21 Aug 95

Call: William Armstrong 301-405-3372

Agency: Univ. MD College Park

ID No: ES-024-871-101

Desc: Enclose filter/UV Structure, Freedom District Wastewater Treatment Plant, Maryland Environmental Services

Location: Sykesville, MD

Type of Contract: FP

Proc Method: AEA

Awardee: Whitman, Reuardt and Associates - Baltimore, MD

Amount: \$32,800

Award Date: 17 Aug 95

Call: D.N. Niemeyer 410-225-4222

Agency: General Services

ID No: MTA-0494

Desc: General architectural/engineering design services

Location: Metropolitan Baltimore

Type of Contract: CPFF

Proc Method: AEA

Awardee: Rummel, Klepper & Kahl, Baltimore, MD

Amount: \$750,000.00

Award Date: 30 Aug 95

Call: Monte Josephson 410-767-3354

Agency: Mass Transit Admin.

ID No: MTA-0496

Desc: General architectural/engineering design services

Location: Metropolitan Baltimore

Type of Contract: CPFF

Proc Method: AEA

Awardee: Whitman, Reuardt & Associates, Baltimore, MD

Amount: \$750,000.00

Award Date: 30 Aug 95

Call: Monte Josephson 410-767-3354

Agency: Mass Transit Admin.

ID No: MTA-0623

Desc: Rail electrification consultant services for Central Light Rail Line

Location: Baltimore

Type of Contract: FP

Proc Method: SS

Awardee: Peter L. Shaw, Chestertown, MD

Amount: \$9,985.00

Award Date: 1 Sep 95

Call: Monte Josephson 410-767-3354

Agency: Mass Transit Admin.

ID No: VA-765-941-001

Desc: Science Building I (Physics), University of Maryland, Baltimore County, University of Maryland System

Location: Baltimore County

Type of Contract: FP

Proc Method: AEA

Awardee: Payette Associates, Inc. Boston, MA w/Design Collective

Amount: \$1,274,730

Award Date: 30 Aug 95

Call: D.N. Niemeyer 410-225-4222

Agency: General Services

2 Commodity/Supply

State

ID No: 001P6800153

Desc: Solid Waste Refuse Bailers

Location: MDOT - BWI Airport, MD

Type of Contract: FP

Proc Method: CSB

Awardee: LTR Corporation - Eldersburg, MD

Amount: \$41,268

Award Date: 30 Aug 95

Exhibit 5-C



August 25, 1995

Page 11

How to Read a VBO Advertisement

- ➔ **1** Item: Park improvements.
- ➔ **2** Reference #: 2C173
- ➔ **3** Description: Improve Patrick Henry Park, including demolition, grading, seeding, landscaping, irrigation. Construct paths, walks, parking areas and site utilities. LCR, BBR, DFC \$30,000.
- ➔ **4** Location: Dept. of Conservation and Historic Resources, Richmond, Va. ← **7**
- ➔ **5** Return Date: 8-10-90 (MPBC 8-1-90)
- ➔ **6** Contact: Mary Fleming, (804) 786-1310.

- 1** Item - a generic term used to refer to any goods or services being purchased.
- 2** Reference # - number assigned by the agency to identify that solicitation. Use this number when requesting the bid or proposal documents or other information concerning the solicitation.
- 3** Description - a concise statement which provides information about the content and scope of the purchase project.
- 4** Location - states the agency purchasing the item and the place where the goods or service must be delivered or performed.
- 5** Return Date - projected closing date to accept the bid (proposal). The exact time and date will be provided by the agency contact or on the bid document.
- 6** Contact - the person who can give information regarding specifications, terms and conditions and other requirements.
- 7** Abbreviations - short designations used to convey important information about the bid/proposal. Review the list at right for definitions of these abbreviations.

Commonly Used Abbreviations

BBR	Bid Bond Required
BNE	Brand Name or Equal
DDD	Desired Delivery Date
DFC	Drawings Furnished (Charge)
DFN	Drawings Furnished (No Charge)
F & I	Furnish & Install
FI & T	Furnish, Install & Train
IFB	Invitation for Bid
LCR	Licensed Contractor Required
LIR	Liability Insurance Required
LWB	Lease with Option to Buy
MPBC	Mandatory Pre-bid Conference
MPPC	Mandatory Pre-proposal Conference
NSA	No Substitutes Acceptable
PBC	Pre-bid Conference
PPBR	Performance & Payment Bond Required
PPC	Pre-proposal Conference
PQR	Pre-qualification Required
R&R	Remove & Replace
RFP	Request for Proposal
SVR	Site Visit Required

Agency Name Abbreviations

DMV	Dept. of Motor Vehicles
DPS	Div. of Purchases and Supply
GMU	George Mason University
JMU	James Madison University
NSU	Norfolk State University
ODU	Old Dominion University
UVA	University of Virginia
VCU/MCV	Va. Commonwealth University/ Medical College of Virginia
VDOT	Va. Dept. of Transportation
W&M	College of William and Mary

No Warranties

The Commonwealth of Virginia does not make express or implied warranties with regard to Virginia Business Opportunities. Neither the Commonwealth of Virginia, its officers, employees nor agents will be liable for any damages resulting from failure to include any announcement or notice in Virginia Business Opportunities or resulting from any inaccuracies contained therein, or resulting from an Invitation for Bids or Request for Proposals not reaching the requestor in time for preparation and timely submission of a bid or proposal, whether these damages be direct, consequential or incidental, including but not limited to damages for lost profits, and whether the claims for these damages arise in tort or contract.

Virginia Business Opportunities

Department of General Services
Donald C. Williams, Director
Division of Purchases and Supply
Donald F. Moore, Director
Manager
Cynthia S. Wetherald
(804) 786-5494
Division of Purchases and Supply
P. O. Box 1199
Richmond, Virginia 23209-1199
VOICE/TDD (804) 786-6152



Printed on recycled paper

Questions?

Call the right person:

Account information/changes
Problems receiving VBO
Request subscription

Mary Fleming
(804) 786-1310

Information on specific ad
Agency Contact Person

Misprints
Unable to reach contact point
Cynthia Wetherald
(804) 786-5494

Your comments, questions and suggestions are welcome. Please tell us how we can serve you better.
(804) 786-5494

August 25, 1995



Page 3

CONSTRUCTION General

1

Item: Barracks renovation.

Reference #: IFB VAFM-RE-9550

Description: Work consists of interior renovations, structural repairs, lighting, plumbing and HVAC to existing barracks building #233, State Military Reservation, Virginia Beach.
Location: Dept. of Military Affairs, Virginia Beach, VA

Due Date: 09/26/95

Contact: Bid Package Voice Mail, (804)

775-9365

FAX: (804) 775-9400

Technical Contact: James Williams, (804)
775-9401

Item: Vehicle wash rack repair.

Reference #: IFB VAFM-NM-FY95-029

Description: Installation of new oil/water separator, drainage improvements and repairs to existing vehicle wash racks, Mobilization and Equipment Training Site (MATES), Fort Pickett, Blackstone, Va.

Location: Dept. of Military Affairs, Blackstone, VA

Due Date: 09/28/95 (PBC 09/20/95)

Contact: Bid Package Voice Mail, (804)

775-9365

Item: Building renovation services.

Reference #: IFB 902-09

Description: Pre-qualification for solicitations for general construction in the Capitol area buildings, Department of General Services. This advertisement runs continuously. Contractors that requested it previously need not request it again.

Location: Dept. of General Svcs., Richmond, VA

Due Date:

Contact: VBO Message Ctr., (804) 371-7815

FAX: (804) 371-7974 (preferred)

Item: Building renovation services.

Reference #: IFB 902-09-48

Description: Pre-qualification for solicitations for services to paint the Capitol area Department of General Services buildings. For registration please call contact listed below. This advertisement runs continuously. Contractors that requested it previously need not request it again.

Location: Dept. of General Svcs., Richmond, VA

Due Date:

Contact: VBO Message Ctr., (804) 371-7815

FAX: (804) 371-7974 (preferred)

Item: Electrical services.

Reference #: IFB 902-09-12

Description: Pre-qualification for solicitations for electrical services in the Capital area buildings Department of General Services. This advertisement runs continuously. Contractors that requested it previously need not request it again.

Location: Dept. of General Svcs., Richmond, VA

Due Date:

Contact: VBO Message Ctr., (804) 371-7815

FAX: (804) 371-7974 (preferred)

Item: Insulation services.

Reference #: IFB 902-33

Description: Pre-qualification for solicitations for insulation services in the Capitol area buildings, Department of General Services. This advertisement runs continuously. Contractors that requested it previously need not request it again.

Location: Dept. of General Svcs., Richmond, VA

Due Date:

Contact: VBO Message Ctr., (804) 371-7815

FAX: (804) 371-7974

Item: Roof replacement.

Reference #: IFB 15541-07

Description: Remove all existing roofing materials, insulation, flashing, stack flashing, sundeck handrail and asbestos down to existing MTL deck and replace with an SBS modified bitumium roof system complete with new insulation, flashing and all other accessories as required. Dupont Hall. BBR, PPBR, LIR, LCR, DFC \$50.00.

Location: W&M, Williamsburg, VA

Due Date: 09/20/95 (MPBC 09/06/95)

Contact: John Patten, HDH Associates, (800)
526-4130

FAX: (540) 389-1540

Item: Excavating services.

Reference #: IFB 608322

Description: Establish term contract to provide excavating services.

Location: Va. Tech., Blacksburg, VA

Due Date: 09/21/95 (PBC 09/06/95)

Contact: VBO Message Ctr., (703) 231-4638

Item: Fire alarm replacement.

Reference #: IFB Fire Safety 1993 - 236-15425

Description: Installation and replacement of fire alarms along with the removal of asbestos in designated university buildings.

Location: VCU/MCV, Richmond, VA

Due Date: 09/19/95 (MPBC 09/06/95)

Contact: Systech Group, Inc., (703)
759-3813

Item: Boiler equipment repair.

Reference #: IFB 96-14

Description: On-call repair service for all boiler equipment. One-year contract with 4 additional 1-year options. LCR, LIR, SVR.

Location: Va. Museum of Fine Arts,
Richmond, VA

Due Date: 09/19/95 (PBC 09/08/95)

Contact: Marian Winer, (804) 367-6921

Technical Contact: Mike Slatner, (804)
367-9713

Item: Roof coating.

Reference #: N/A

Description: Installation of a liquid roofing system over the existing roof, as required for a complete watertight roof system. MC Building.
Location: Northern Va. C.C., Annandale, VA
Due Date: 09/20/95 (PBC 09/07/95)
Contact: HDH Associates, (703) 389-8282

Item: Roof replacement.

Reference #: N/A

Description: Recovery of existing built-up roof (approximately 12,288 sq. ft.) with new insulation board and ballasted flexible sheet membrane, including all flashings and counter flashing as required for a complete watertight roof system. Dackels Hall.

Location: Dabney S. Lancaster C.C., Clifton Forge, VA

Due Date: 09/19/95 (PBC 09/06/95)

Contact: HDH Associates, (703) 389-8282

Item: Replacement of firebox.

Reference #: IFB 701: 6-18MLB

Description: Remove and replace Detroit Stoker #1 firebox lining.

Location: Bland Corr. Ctr., Bland, VA

Due Date: 09/07/95 (SVR 08/31/95)

Contact: Mary Fleming, (804) 786-1310

FAX: (804) 371-8937

Download Filename: Q701616.EXE

Item: Water distribution system improvements.

Reference #: N/A

Description: Installation of approximately 3,000 l. f. of 10" water main, 1,900 l. f. of 8" waterline, and various size service lines, DFC \$60.00.

Location: Bland Corr. Ctr., Bland, VA

Due Date: 09/26/95 (PBC 09/19/95)

Contact: Draper Aden Associates, (703)
552-0444

Item: Mechanical screen channel and grease interceptor facility.

Reference #: N/A

Description: Contract 1: Construct new mechanical screen channel, DFC \$50.00;
Contract 2: Construct grease interceptor facility, DFC \$50.00.

Location: Keen Mountain Corr. Ctr., Oakwood, VA

Due Date: 09/19/95 (PBC 09/06/95)

Contact: Thompson & Litton, (703) 328-2161

CONSTRUCTION Highways

2

Item: Equipment with operators for road work.

Reference #: IFB 95-302-043

Description: Miscellaneous equipment with operators for various construction, road work, road repairs, pipe replacement in Amherst and Nelson Cos.

Location: VDOT, Amherst Residency, VA

Chapter 6

FINDINGS AND RECOMMENDATIONS

Findings

This study was prepared in response to Senate Resolution No. 3 (1995), which requested the Bureau to evaluate the efficiency of using newspapers of general circulation as the sole means of publishing public notices required by law. In the course of this review the Bureau made the following findings.

1. Based on an accounting code for all state advertising (not only publication of legal and public notices in newspapers), the estimated cost to the State was \$3,386,151 in fiscal year 1994-1995 and \$2,408,735 in fiscal year 1993-1994 according to the Accounting Division of the Department of Accounting and General Services (DAGS). The Bureau's survey of the amounts spent by agencies on all kinds of notices published in newspapers during fiscal year 1993-1994 reveals total expenditures by all respondents of \$2,286,345, about ninety-five percent of the figure reported by DAGS.

2. The legal notices most often reported by respondents for publication include notices of hearings to comply with rulemaking requirements under the Hawaii Administrative Procedure Act (HAPA), bid and procurement notices, requests for professional services, and notices of other kinds of hearings other than for the HAPA. Public agencies generally appear to be very diligent in their efforts to inform the public of many kinds of government actions, often publishing notices that are not required by law.

3. The cost of publishing legal notices in newspapers can be reduced immediately if agencies publish only those notices that are required by law, and reduce the size and frequency of required notices. But every limitation placed on publication of notices to reduce cost, will in some degree lessen the public's ability to receive or acquire that information. What cannot be predicted at this time, however, is how much the taking of these actions will reduce total expenditures for newspaper publication of legal notices, or how many persons will be affected or inconvenienced by the lack of certain kinds of information.

4. Responsibility for newspaper publication of notices by the different government agencies is now decentralized. If a type of weekly publication is selected as an alternative to the current procedure of publishing in the next available daily (or in some county situations, weekly newspaper) whether in a newspaper tabloid, newspaper fullpage block purchase, or separate register-like publication, a statewide coordinator would be desirable to categorize the similar notices in the manner of the classified ads or to consolidate notices when possible. For example, bid and procurement notices in Hawaii FYI are coordinated by the Information and Communications Services Division of the Department of Budget and Finance even if all notices destined for Hawaii FYI are produced by different departments.

One important consideration in a consolidated publication is the turnaround time between submittal of the ad and its appearance in published form. The current decentralized process gives departments some flexibility in lead time. If the whole ad is not very large (not over 20 column inches) it can be published within about a week's time. On the other hand, a tabloid, full newpage, or register will require more lead time simply because of the larger amount of material to be prepared for typesetting, proofing, printing, and other processes. Therefore, while the Bureau believes that tabloids or other ways of consolidating legal and

public notices have potential, a definite concern remains at this time as to whether the information will be published consistently in a timely manner.

5. Although statutory amendments may allow telecommunication media (e.g., cable television bulletin board notices and Hawaii FYI and the Internet) to supplement printed notices to give departments more choices for ways to give notice to citizens, these media are already broadcasting certain kinds of public hearing notices and bid and procurement notices. These methods undoubtedly have significant potential to become the publication media of choice for the future.

Presently, the major stumbling block to widespread use of electronic media is the availability (or lack thereof) of hardware in many households, such as cable hookups and personal computers and modems. Information accessible by computer also has the potential for tampering which can result in transmittal of inaccurate information. Newspapers, while not necessarily be found in every household, are nonetheless cheaper, more widely available, and verifiable.

In selecting a less costly medium, whether printed or electronic, it would not be advisable to allow public agencies unlimited choice of a medium without requiring at least one primary medium that a citizen can continue to rely on for legal notices. Chaos and confusion would result if every different medium must be reviewed on the chance that it might publish an important legal notice.

Recommendations

In chapter 5 the Bureau presented the Legislature with several options ranging from the production of a state register to the consolidation and publication of a weekly legal notice full page ad or a tabloid insert in the newspaper. Each of the options contains advantages and disadvantages and different costs that are not directly comparable. For example, turnaround times for the full page legal ad, because of the necessity of typesetting, is longer than for the preparation of the tabloid insert. Even if costs could be made comparable, the longer lead time for any single option may make the choice unacceptable for certain kinds of notices or for certain departments. Perhaps more importantly, the need to consolidate the ads for these options mean that time is needed to gear up before implementation, because a state coordinator would have to be designated and attendant guidelines would have to be developed.

In the case of a state register, several other variables need to be ascertained such as what kinds of material will be included along with notices because the selection of content material will have a bearing on the size of the publication as well as the strength of subscription sales which can then offset the cost of producing the register.

As the policy section of chapter 5 points out, "all things being equal, efforts should be made to provide the same amount of notice at less cost. [But] to what extent should tradeoffs be made to reduce the amount or extent of notice to simply reduce cost? As is true of many public policy issues, there are many variables and no perfect answers."

It is in the nature of legal notices that certain factors cannot be known in advance. Among these factors are whether and when there will be a need for a legal notice and the size of the ad, among other things. While specific events trigger the need for a legal ad, (failure to pay lease rent on Hawaiian home lands, or proposed administrative rulemaking for example) the fact that a specific event will occur cannot at all be predicted with certainty. The

FINDINGS AND RECOMMENDATIONS

Bureau's survey, revealing that departments are either reluctant or unable to predict how much of their budget will be spent on legal ads in fiscal year 1995-1996 is an indication of this uncertainty. Therefore, even if more data become available, the choice of which publication alternative is best (in terms of both cost and extent of notice) may not be readily discernible. This does not mean a recommendation is impossible--only that the benefits and costs cannot be accurately predicted or replicated from one year to the next.

Given these uncertainties, the Bureau recommends two actions designed to decrease or at least contain the cost of publishing legal notices, without any loss, or possibly even increasing the chances that the notices will be seen by the interested or affected persons. At the same time these recommendations would require the least amount of start-up time and staff reorganization.

1. The Legislature should consider designating an official statewide paper for the publication of all state legal notices. This selection can be determined by competitive bid, for a contractual period of not less than one year. As a substantial purchaser of legal ad space, the state already negotiates favorable rates set forth in the price list with the Hawaii Newspaper Agency used by the agencies. Even lower rates may be available if the State can guarantee to a designated newspaper that all, and not just some legal notices will appear in that newspaper. Interested persons will also be certain that all notices will be published in a single source, so that the concern of giving notice to all most likely to see it would be adequately addressed.

During the period of the contract, certain types of data should be collected in order to more accurately compare alternative courses of action. For example, state departments should be required to accurately record the amount of column inches and the costs paid solely for newspaper (as opposed to other media) advertisements. As a corollary to the collection of newspaper publication costs, it would be helpful to know how much was being spent to mail out notices and supplemental material (for example, textual material mailed in compliance with a general notice of hearing to comply with rulemaking requirements under the HAPA). If certain ads are for public information and not legal ads required by law, this distinction should also be noted. Some advertisements may recur each quarter or at the beginning or end of each fiscal year so that identifying these "blips" might lead to a different type of publication for the benefit of specific readers (or to the purchase of tabloid inserts at necessary intervals). This information can provide a sharper focus as to whether other forms of publication such as inserts or full pages are adequately advantageous. The Department of Accounting and General Services is the department best equipped to monitor, through its control of accounting codes or other methods it deems appropriate, the volume of newspaper advertisements, costs, and other information for these purposes.

Even if the idea of an official statewide paper is not immediately implemented, data collection could still be a valuable exercise because the information can only benefit future analysis of this issue.

2. The Bureau's second recommendation is that the Legislature adopt a concurrent resolution reaffirming its commitment to an informed public and encouraging departments to use public service announcements, free broadcasting media such as cable television, to minimize publication costs, especially in the area of ads that are now being published solely for public information purposes and not pursuant to any legal requirement. At the same time, the Attorney General's office should be encouraged to allow agencies that are publishing hearing notices of rulemaking actions under the HAPA to print a general description as permitted by section 91-3(a)(1)(A)(ii), *Hawaii Revised Statutes*, rather than the detailed synopsis otherwise required unless the Attorney General has strong reason to believe

that the longer version of the notice should be published. The intent is to have agencies publish the shorter form of notice when not disadvantageous to do so, in order to reduce publication costs in an area that generates a high volume of mandatory public notices.

SENATE RESOLUTION

REQUESTING A STUDY ON THE EFFICIENCY OF CURRENT LEGAL NOTICE
PRACTICES AND THE FEASIBILITY OF OTHER MEANS OF PROVIDING
NOTICE.

1 WHEREAS, the State is constantly examining ways of
2 developing more efficient and cost-effective procedures in all
3 areas of government; and

4
5 WHEREAS, numerous state laws require notices by newspaper
6 publication for actions such as public auctions and sales, public
7 hearings, appointment of administrators of wills, agricultural
8 cooperative association meetings, assessments on real property,
9 bank foreclosures, cattle landings, grand jury drawings,
10 involuntary dissolutions of corporations, and adoption of county
11 ordinances; and

12
13 WHEREAS, the effectiveness of publishing notices is
14 questionable because not everyone reads the paper, there are no
15 requirements placed on the size and number of advertisements
16 placed in the paper, there are no assurances that the target
17 audience will be reached by the advertisement, and there are no
18 restrictions on the type of newspaper the State or counties may
19 use other than that the newspaper be one with a general
20 circulation; and

21
22 WHEREAS, with the prices of newspaper advertising for legal
23 notices by State and county agencies being as high as \$30.94 per
24 column inch, the expense of publication may far exceed its
25 intended result; and

26
27 WHEREAS, many of the laws requiring the publication of legal
28 notices were enacted years ago and in view of the vast array of
29 communications media available in this Information Age, the
30 Legislature believes that there must be more cost-effective and
31 efficient means of providing notice to the public; now,
32 therefore,
33

1 BE IT RESOLVED by the Senate of the Eighteenth Legislature
2 of the State of Hawaii, Regular Session of 1995, that the
3 Legislative Reference Bureau is requested to conduct a study to
4 evaluate the efficiency of the use of newspapers of general
5 circulation as the sole form of public notices required by law;
6 and

7

8 BE IT FURTHER RESOLVED that the Legislative Reference Bureau
9 is requested to include in its study:

10

11 (1) A comparative analysis of other means of providing
12 public notice such as the FYI information system, the
13 weekly newspapers and periodicals, business and trade
14 publications, or the public library system as a
15 dissemination point for public notices;

16

17 (2) The feasibility of putting out for bid certain types of
18 notices that require regular and continuous publication
19 such as those for job vacancies; and

20

21 (3) The legal notice requirements of other states;

22

23 and

24

25 BE IT FURTHER RESOLVED that the Legislative Reference Bureau
26 is requested to submit to the Legislature a report of its
27 findings and recommendations no later than twenty days prior to
28 the convening of the 1996 Regular Session; and

29

30 BE IT FURTHER RESOLVED that a certified copy of this
31 Resolution be transmitted to the Director of the Legislative
32 Reference Bureau.

Appendix B

LIST OF OCCURRENCES

Search request: notice* and newspaper*
(Limited to: All Text Bodies w/o Notes).
1031 occurrences in 187 documents.

CONST 17-3	Section 3
HHCA 209	Successors to lessees.
HHCA 506	Award of homestead general leases; notification of applicants on homestead waiting lists; disposition by rent.
HRS 6E-41	Cemeteries; removal or redesignation.
HRS 10-25	Revenue bonds.
HRS 11-41	Boards of registration, appointment, tenure.
HRS 11-65	Determination of party disqualification; notice of disqualification.
HRS 11-92.3	Consolidated precincts: natural disasters; special elections.
HRS 11-227	Public notices.
HRS 14-22	Contested nominations of presidential electors and alternates.
HRS 25-2	Duties.
HRS 37-94	Director of finance; duties.
HRS 38-3	Securities for protection of funds deposited.
HRS 39-5	Sale of bonds.
HRS 39-55	Sale of revenue bonds.
HRS 40-65	Notice of payment of warrant notes.
HRS 46-16.7	County general excise and use tax surcharge.
HRS 46-145	Refund of impact fees.
HRS 47-8	Sale of bonds.
HRS 47C-6	Public hearing; declaratory judgment.
HRS 49-5	Sale of revenue bonds.
HRS 52D-10	Disposition of found, stolen, or unclaimed property.
HRS 53-1	Definitions.
HRS 53-16	Bonds of agency.
HRS 53-60	Ordinance relating to repair, closing, and demolition of dwellings unfit for human habitation.
HRS 54-26	Rates.
HRS 54-63	Rates.
HRS 77-4	Adoption of compensation plan.
HRS 78-1	Citizenship and residence of government officials and employees; exceptions.
HRS 84-31	Duties of commission; complaint, hearing, determination.
HRS 88-171	Public hearings; notice.
HRS 89-12	Strikes, rights and prohibitions.
HRS 91-3	Procedure for adoption, amendment or repeal of rules.
HRS 91-9.5	Notification of hearing; service.
HRS 92-41	Publication of legal notices.
HRS 97-2	Registration of lobbyists, requirements.
HRS 101-20	Notice.
HRS 103D-302	Competitive sealed bidding.
HRS 109-8	Lost and found money or property at the stadium.
HRS 110-3	Removal of remains; public hearing and other requirements.
HRS 167-17	Formation of irrigation project on initiative of board; notice and hearing; protests.

HRS 171-16	Notices.
HRS 171-31.5	Disposition of abandoned or seized property.
HRS 171-41.5	Amendment of commercial, hotel, or industrial lease.
HRS 171-60	Development through private developer.
HRS 172-1	Department to list lands on which commutation payable; publication; notice to pay.
HRS 172-3	Enforcement of payment.
HRS 172-8	Notice to owners to have boundaries determined.
HRS 174-17	Formation of a project on initiative of board; notice and hearing; protests.
HRS 174C-26	Filing of declaration.
HRS 174C-42	Notice; public hearing required.
HRS 174C-46	Findings of fact; decision of commission.
HRS 174C-52	Notice.
HRS 174C-62	Declaration of water shortage.
HRS 174C-71	Protection of instream uses.
HRS 182-4	Mining leases on state lands.
HRS 183-12	Notice of hearing.
HRS 183-19	Exclusion of livestock from forest reserves, game management areas, public hunting areas, and natural area reserves; notice.
HRS 183-20	Disposition.
HRS 183C-4	Zoning; amendments.
HRS 183C-6	Permits and site plan approvals.
HRS 190D-11	Conservation district use application.
HRS 195-4	Powers and duties of the department.
HRS 199-7	Search and seizure; forfeiture of property.
HRS 200-43	Public auction.
HRS 200-49	Disposition of derelict vessel.
HRS 201E-223	Restrictions on use, sale, and transfer of real property; effect of amendment or repeal.
HRS 205-4	Amendments to district boundaries involving land areas greater than fifteen acres.
HRS 205-5.2	Designation of areas as geothermal resource subzones.
HRS 205A-29	Special management area use permit procedure.
HRS 206-5	Declaration of development areas.
HRS 206-9	Disposition of lands.
HRS 206-29	Form and sale of bonds.
HRS 231-25	Payment, enforcement of by assumpsit action or by levy and distraint upon all property and rights to property.
HRS 231-30	Unknown or nonresident delinquents; procedure to collect taxes from.
HRS 231-63	Tax liens; foreclosure without suit, notice.
HRS 231-70	Disposition of surplus moneys.
HRS 243-5	County fuel tax.
HRS 246-40	Returns, made when; form; open to public.
HRS 246-43	Notice of assessments; addresses of persons entitled to notice.
HRS 246-56	Tax liens; foreclosure without suit, notice.
HRS 246-63	Disposition of surplus moneys.
HRS 249-10	Delinquent penalties; seizure and sale for tax.
HRS 249-13	Determination of rate.
HRS 249-15	Seizure and sale.
HRS 261-7.5	Airport facilities; collection of landing fees and other charges and fees.
HRS 261-17.6	Parking control at airports.
HRS 261-17.7	Lost and found money or property at airports.
HRS 261-71	Custody and disposal of abandoned aircraft.
HRS 261-73	Custody and disposal of derelict aircraft.

HRS 261-75	Disposal of aircraft by persons in aircraft repair business.
HRS 266-14	Demurrage, lien, foreclosure.
HRS 269-12	Notices.
HRS 271-8.5	Advertising.
HRS 279E-6	Meetings.
HRS 281-57	Preliminary hearing; notice of public hearing.
HRS 290-11	Vehicles left unattended on private and public property; sale or disposition of abandoned vehicles.
HRS 306-4	Revenue bonds.
HRS 322-24	Service of notice.
HRS 323-70	Revenues.
HRS 328-22	Duties of department.
HRS 340E-6	Notification of users and department.
HRS 342B-13	Public participation.
HRS 342D-7	Variances.
HRS 342F-5	Variances.
HRS 342G-30	Records.
HRS 342H-5	Variances.
HRS 342L-6	Variances; procedures for.
HRS 356-29	Form and sale of bonds.
HRS 359-80	Sale of bonds.
HRS 360-13	Foreclosure of lien, notice, etc.
HRS 360-16	Lien on abandoned personalty, sale, etc.
HRS 383-71	Collection of delinquent contributions.
HRS 396-4	Powers and duties of department.
HRS 397-4	Powers and duties.
HRS 412:2-409	Conservator's segregation of deposits.
HRS 412:2-415	Notice of receivership; filing of claims.
HRS 412:3-204	Publication of notice.
HRS 412:3-302	Publication of notice.
HRS 412:3-612	Acquisition of control of financial institution or financial institution holding company.
HRS 415-87	Procedure after filing of statement of intent to dissolve.
HRS 415-92	Articles of dissolution.
HRS 415-95	Involuntary; ordered by director and certificates, notices; reinstatement.
HRS 415-119	Withdrawal of foreign corporation.
HRS 415A-18	Involuntary dissolution; reinstatement.
HRS 415B-91	Voluntary dissolution.
HRS 415B-98	Involuntary dissolution, ordered by director; reinstatement.
HRS 415B-134	Withdrawal of foreign corporation.
HRS 421-12	General and special meetings; how called.
HRS 425-17	Withdrawal procedure for foreign general partnership.
HRS 425-135	Power of partner to bind partnership to third persons after dissolution.
HRS 425D-906	Cancellation of registration.
HRS 431:3-215	Withdrawal from State; obligations.
HRS 431:3-408	Confidentiality and prohibition on announcements.
HRS 431:10C-311	Total loss motor vehicle claims: cash settlement.
HRS 431:13-103	Unfair methods of competition and unfair or deceptive acts or practices defined.
HRS 431:14-119	Publication of approved workers' compensation rate filings.
HRS 431:15-311	Notice to creditors and others.
HRS 431:16-110	Duties and powers of the commissioner.
HRS 431:16-218	Prohibited advertisement of association act in insurance sales; notice to policyholders.

HRS 431:19-102.4	Redomestication; conversion to foreign insurer.
HRS 435E-41	Unfair methods of competition and deceptive acts or practices.
HRS 440G-7	Cable franchise application or proposal procedure; public hearing; notice.
HRS 441-16	Hearing.
HRS 445-112	Where and when permitted.
HRS 448-6	Powers and duties, meetings.
HRS 485-14	Registration of dealers, investment advisers, salespersons and investment adviser representatives.
HRS 486K-3	Sale of detained baggage; notice; disposition of proceeds.
HRS 490:2A-507	Proof of market rent: time and place.
HRS 501-41	Notice of application.
HRS 501-42	Service; return day; further notice.
HRS 502-3	Deputy registrar, appointment, duties.
HRS 507-2	Enforcement by sale of animals.
HRS 507-5	Foreclosure by bailee when not otherwise provided.
HRS 507-14	Enforcement; notice; auction.
HRS 507-23	Sale of personal property by lien holder.
HRS 507-43	Filing notice, contents.
HRS 507-66	Method of sale.
HRS 514A-102	Announcement, publication.
HRS 516-22	Designation of leased fee interest in all or part of development tract for acquisition.
HRS 516-29	Notice of disposition.
HRS 523A-18	Notice and publication of lists of abandoned property.
HRS 523A-22	Public sale of abandoned property.
HRS 523A-56	Posting copy of report; notice of interest and intention to claim; determination of asserted interest.
HRS 523A-59	Notice of proceedings.
HRS 531-29	Confirmation of sales of real property by personal representatives or guardians.
HRS 531-33	Procedure to dispose of unclaimed personalty.
HRS 560:1-401	Notice; method and time of giving.
HRS 560:3-713	Sale, encumbrance or transaction involving conflict of interest.
HRS 560:3-801	Notice to creditors; transfer of claims.
HRS 560:3-1206	Publication by clerk of appointment as personal representative; notice to creditors, heirs, etc.
HRS 574-5	Change of name: procedure.
HRS 578-7	Substituted or constructive service.
HRS 580-3	Service.
HRS 601-13	Publication of notices and process.
HRS 612-16	Grand jury.
HRS 634-23	Joinder of unknown persons; service when defendant unknown or absent.
HRS 634-29	In case of attachment, etc., of real property.
HRS 651-43	Advertisement for sale.
HRS 651-70	Service of petition and notice of hearing; effects of failure to serve; appointment of appraisers.
HRS 664-7	Notice, evidence, decision.
HRS 667-5	Foreclosure under power of sale; notice; affidavit after sale.
HRS 668-14	Sales; auction, notice.
HRS 669-3	Notice by publication or registered mail.
HRS 712A-8	Notice of forfeiture proceedings.
HRS 803-38	Munitions of war.
HRS 805-12	Unclaimed articles used as evidence, disposition of.

Appendix C

PUBLIC NOTICES SURVEY FORM

Introduction

The Hawaii State Legislature has directed the Legislative Reference Bureau (LRB) to study the efficiency of using newspapers of general circulation as the sole method of publishing public notices required by law. The LRB is surveying all government bodies in order to determine what kinds of notices are being published in the newspapers by state (and county) departments and agencies, and the cost of publishing the notices. This information will help the Bureau determine the scope of its study and recommend alternatives.

We are interested in every kind of public notice or legal notice that is paid for by public funds, including classified advertisements for hiring personnel, purely informational notices which indicate highway work, closed season for hunting or fishing, and other ads that are not legally mandated by statute, but nonetheless are printed because they might be of possible interest to the public. We are trying to be as thorough as possible. We have asked your department director (or Mayor's representative in the case of the counties) to distribute these survey forms to persons who deal with public notices for publication in the daily newspapers. We appreciate your time and comments.

Survey Questions

The purpose of this survey is to identify: (a) the various kinds of public notices published by your agency in the newspapers; (b) the amount of space taken up by these notices; and (c) how much money was spent by your agency during fiscal year 1993-94 for printing public notices in the newspaper.

All responses are confidential and may be sent directly to the Legislative Reference Bureau via state messenger, or if from a neighbor island office, in the self-addressed envelope provided.

If you have any questions about this survey, do not hesitate to call Jean K. Mardfin, at 587-0666, Monday - Friday, 7:45 a.m. to 4:30 p.m.

Your name _____ Phone _____

Department _____ Date _____

Agency (or commission/other public agency attached to this department) _____

Address _____

A. Kinds of Notices

Please indicate the kinds of notices for which you are responsible:

1. **Notices Mandated by Statute or Rule.** (If you can provide the HRS (or County Code) section or administrative rule requiring this notice, it would be appreciated.)

- ☐ Notice of public hearing for adoption or amendment of administrative rules (HRS §91-3)
- ☐ Notice of hearing other than for administrative rules, such as applications for licenses, variances, and so on (HRS/Rule §_____)
- ☐ Notice to contractors for bids; providers of professional services (HRS/Rule §_____)
- ☐ Notice of final settlement (HRS/Rule §_____)
- ☐ Notice to remove, destroy, or auction, certain real/personal property (HRS/Rule §_____)
- ☐ Request for proposals (HRS/Rule §_____)
- ☐ Notice to possible successors of... (HRS/Rule §_____)
- ☐ Notice mandated by federal program _____
- ☐ Employment ads not placed by the Department of Human Resource Development _____
- ☐ Other (please describe): _____

2. **Notices Not mandated by Statute or Rule** (Informational notices)

What type of notices does your department/division/branch/agency publish that are purely informational and not mandated by statute or administrative rule but nonetheless printed because it might be of possible interest to the public (check those that apply, and add others, as necessary)?

- ☐ Annual or other types of reports
- ☐ Highway detours, closures
- ☐ Open/closed season for certain fish/game
- ☐ Camping permits availability
- ☐ Change in park hours (e.g., additional hours during summer)
- ☐ Employment opportunities
- ☐ Environmental impact statement process notices
- ☐ Other, describe: _____

B. Costs/Space

1. What did your agency (section/branch/commission, etc.) spend on all of the kinds of notices (including informational notices) published in the newspapers in fiscal year 1993-94? (Note: for state agencies, do not include figures which have been prorated by DAGS from publication costs for public notices which are coordinated by DAGS.)
\$ _____
- 1a. What percent of your 1993-94 publicity budget does this figure represent?
_____ percent of publicity budget
2. During fiscal year 1993-94, did your agency publish any unusually large public notice (such as a full page ad, or a supplement or insert to the paper) which might skew the cost figures in any way?
____ Yes, please describe the ad: _____
____ No _____
3. How much has your office budgeted for newspaper ad expenditures for fiscal year 1995-96?
\$ _____
4. Please indicate whether your notices are published in (check all that apply):
____ Sunday (Advertiser) edition
____ Advertiser only (Monday - Saturday)
____ Star-Bulletin only (Monday - Saturday)
____ Both Advertiser and Star-Bulletin
____ Neighbor island paper:
 ____ Garden Island (Lihue, Kauai)
 ____ Hawaii Tribune Herald (Hilo)
 ____ Maui News (Wailuku)
 ____ West Hawaii Today (Kailua-Kona)
____ Mainland paper, identify _____
____ Other, specify: _____
5. Are certain days of the week preferred for publication of a notice because of circulation size, specific readers, or other reason?
____ Sunday paper only, because _____
____ Mondays, because _____
____ Tuesdays, because _____
____ Wednesdays, because _____
____ Thursdays, because _____
____ Fridays, because _____
____ Saturdays, because _____
____ Does not matter _____

6. How frequently do you publish the same notice?

- ☐ Just once
- ☐ More than once, because:
 - ☐ Required by law
 - ☐ Postponement of bid
 - ☐ Unable to meet program deadline, must republish notice
 - ☐ Other reasons, describe: _____

7. What is your best estimate of how much space your newspaper ads (collectively) typically take up during any given week of the year? (You may use column inches, or number of 8 x 11 sheets, typed, double-spaced).

- ☐ Column inches _____
- ☐ Typed pages _____

8. Does your agency have notices which must be published with less than 5 working days advance preparation, because of an emergency or other reason? If so, how often during the year is this likely to occur?

- ☐ Yes, at least _____ times during the year
- ☐ No, or very seldom

C. Other Information

1. How long have you handled public notices and their publication for this agency?

_____ Years

2. Describe your duties related to issuance of public notices:

- ☐ I write the notice
- ☐ I combine similar notices where possible
- ☐ I approve all notices from this section before release to the newspaper's legal advertising office
- ☐ I prepare the purchase order, process the invoice for payment
- ☐ I am the contact person listed in the ad to answer questions from bidders and other interested persons
- ☐ I verify that the published version was correctly printed
- ☐ I save a copy of the published notice and keep it on file for _____ months/years
- ☐ Other duties, specify _____
- _____
- _____
- _____

3. Do you have any comments about the value and usefulness of public notices in newspapers (ways to save money or ways to get more exposure for the notices).
4. Would you be willing to be interviewed by the LRB Researcher on alternatives to the current practice of notifying the public?
- ___ Yes, please call me at_____
- ___ No, thank you_____

Thank you very much for your assistance.

Please return the completed survey by September 1, 1995 to:

Legislative Reference Bureau
State Capitol
Honolulu, HI 96813
Attention: Jean K. Mardfin, Researcher

Neighbor island agencies will find a stamped, self-addressed envelope enclosed.

Appendix D

ACT 64

H.B. NO. 404

A Bill for an Act Relating to Administrative Rules.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. The legislature finds that interpretations made by the Supreme Court of Hawaii of the public hearing notice provisions of section 91-3, Hawaii Revised Statutes, have resulted in great uncertainty about the validity of many of the adopted administrative rules. In order to avoid case-by-case challenges to the validity of administrative rules on the grounds of faulty public hearing notices, the counties or the agencies of the State of Hawaii as defined in section 91-1, Hawaii Revised Statutes, will have to re-adopt their administrative rules and will have to incur as much as \$10,000,000 in publication and travel costs in order to have public hearing notices that contain a sufficient amount of information about the rules to satisfy the interpretation of section 91-3 made by the Supreme Court of Hawaii. Furthermore, at least one state agency that attempted to comply with the interpretation of section 91-3 made by the Supreme Court of Hawaii has been criticized for including too much detail about its proposed administrative rules in the public hearing notices.

Section 91-3(a)(1), Hawaii Revised Statutes, provides that the notice of the public hearing on the proposed adoption of an administrative rule "shall include a statement of the substance of the proposed rule." In Costa v. Sunn, 64 Haw. 389 (1982), the Supreme Court of Hawaii invalidated certain amendments made to the administrative rules of the Department of Social Services and Housing and stated that "substance" within the meaning of that phrase "means not merely the subject of it, but an intelligible abstract or synopsis of its material and substantial elements"; that the notices involved in that case "stated little more than the headings of the new rules and did not provide interested persons with sufficient information to 'direct their comments toward concrete proposals'"; and that "the notice should fairly apprise interested parties of what is being proposed so they can formulate and present rational responses to the proposal". As a consequence of the Supreme Court's decision, the Department of Social Services and Housing was forced to republish rule amendment notices at a cost of over \$30,000 and to devote considerable staff time and effort to recalculate public assistance benefits under the old unamended rules and then again under the amended rules after the amendments were readopted.

In State v. Rowley, No. 12580 (Nov. 18, 1988), the Supreme Court of Hawaii invalidated an administrative rule of the Department of Land and Natural Resources that prohibited nudity in state parks. The Supreme Court invalidated the rule on the basis that the notice of public hearing published in 1971 did not meet the requirements of section 91-3 as interpreted in 1982 in Costa v. Sunn, even though the 1971 rules were repealed and reformatted in 1981, the rule prohibiting nudity in state parks had been a public record for over ten years, and the public hearing notice published in 1981 expressly stated that "Copies of the proposed Administrative Rules and of the regulations to be repealed are available for public

inspection” and stated where the rules were available for inspection. As pointed out in the dissenting opinion in State v. Rowley, the opinion of the Supreme Court “effectively invalidates all the rules governing the State Park System on a questionable ground that rules repealed in 1981 were not validly adopted in 1971.” Furthermore, the administrative rules of all other agencies that were primarily just reformatted about 1981 in total without detailed explanation of the substance of the rules that had previously been in force and effect are also in danger of being invalidated. A considerable expense of staff time and effort will be required to review all public hearing notices published pursuant to the Hawaii Administrative Procedure Act since its original enactment took effect on January 2, 1962, or to republish detailed notices of public hearings and re-adopt all existing administrative rules.

Consequently, the purposes of this Act are to:

- (1) Expressly ratify and validate all administrative rules and rule amendments and repeals that were filed pursuant to section 91-4, Hawaii Revised Statutes, before the close of business on December 31, 1986, to the extent that those administrative rules and rule amendments and repeals shall be considered to be free from any noncompliance with the statutory procedural requirements for the adoption, amendment, or repeal of administrative rules;
- (2) Provide clarifying statutory wording that will expressly enable agencies to publish notices that generally describe the subjects involved and the purposes to be achieved by a proposed rule, together with a description of where and how free copies of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed may be requested, instead of including in the notice only a statement of the substance of the proposed rule; and
- (3) Impose a three-year limitations period on challenges to the validity of any adopted administrative rule adoption, amendment, or repeal on the basis of noncompliance with the procedural requirements for rule adoption, amendment, or repeal.

SECTION 2. Section 91-3, Hawaii Revised Statutes, is amended to read as follows:

“§91-3 Procedure for adoption, amendment or repeal of rules. (a) Prior to the adoption of any rule authorized by law, or the amendment or repeal thereof, the adopting agency shall:

- (1) Give at least [twenty] thirty days’ notice for a public hearing. [Such] The notice shall include [a]:
 - (A) Either:
 - (i) A statement of the substance of the proposed rule[, and of the] adoption, amendment, or repeal; or
 - (ii) A general description of the subjects involved and the purposes to be achieved by the proposed rule adoption, amendment, or repeal; and
 - (B) A statement that a copy of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed will be mailed at no cost to any interested person who requests a copy, together with a description of where and how the requests may be made; and
 - (C) The date, time, and place where the public hearing will be held and where interested persons may be heard [thereon.] on the proposed rule adoption, amendment, or repeal.

The notice shall be mailed to all persons who have made a timely written request of the agency for advance notice of its [rulemaking] rule-making proceedings, and published at least once in a newspaper of general circulation in the State for state agencies and in the county for county agencies.

- (2) Afford all interested persons opportunity to submit data, views, or arguments, orally or in writing. The agency shall fully consider all written and oral submissions respecting the proposed rule. The agency may make its decision at the public hearing or announce then the date as to when it intends to make its decision. Upon adoption, amendment, or repeal of a rule, the agency shall, if requested to do so by an interested person, issue a concise statement of the principal reasons for and against its determination.

(b) Notwithstanding the foregoing, if an agency finds that an imminent peril to the public health, safety, or morals or to livestock and poultry health requires adoption, amendment, or repeal of a rule upon less than [twenty] thirty days' notice of hearing, and states in writing its reasons for such finding, it may proceed without prior notice or hearing or upon such abbreviated notice and hearing as it finds practicable to adopt an emergency rule to be effective for a period of not longer than one hundred twenty days without renewal.

(c) The adoption, amendment, or repeal of any rule by any state agency shall be subject to the approval of the governor. The adoption, amendment, or repeal of any rule by any county agency shall be subject to the approval of the mayor of the county. The provisions of this subsection shall not apply to the adoption, amendment, and repeal of the rules and regulations of the county boards of water supply.

(d) The requirements of subsection (a) may be waived by the governor in the case of the State, or by the mayor in the case of a county, whenever a state or county agency is required by federal provisions to promulgate rules as a condition to receiving federal funds and such agency is allowed no discretion in interpreting such federal provisions as to the rules required to be promulgated; provided that the agency shall make such adoption, amendment, or repeal known to the public by publishing a statement of the substance of the proposed rule at least once in a newspaper of general circulation in the State prior to the waiver of the governor or the mayor.

(e) No adoption, amendment, or repeal of any rule shall be invalidated solely because of the inadvertent failure to mail an advance notice of rule-making proceedings or the inadvertent failure to mail or the nonreceipt of requested copies of the proposed rule to be adopted, the proposed rule amendment, or the rule proposed to be repealed. Any challenge to the validity of the adoption, amendment, or repeal of an administrative rule on the ground of noncompliance with statutory procedural requirements shall be forever barred unless the challenge is made in a proceeding or action, including an action pursuant to section 91-7, that is begun within three years after the effective date of the adoption, amendment, or repeal of the rule."

SECTION 3. The legislature hereby declares that all administrative rules and rule amendments and repeals that were filed pursuant to section 91-4, Hawaii Revised Statutes, before the close of business on December 31, 1986, shall be considered to be validly adopted, amended, or repealed and free from any non-compliance with statutory procedural requirements for the adoption, amendment, or repeal of administrative rules. An administrative rule or rule amendment or repeal filed pursuant to section 91-4 before the close of business on December 31, 1986, shall not be invalidated by a court on the ground of noncompliance with the statutory

procedural requirements for the adoption, amendment, or repeal of administrative rules.

SECTION 4. The validity of any administrative rule adoption, amendment, or repeal filed pursuant to section 91-4, Hawaii Revised Statutes, after December 31, 1986, and before the effective date of this Act may be challenged on the grounds of noncompliance with statutory procedural requirements for the adoption, amendment, or repeal of administrative rules, subject to the three-year limitations period applicable pursuant to section 91-3(e), Hawaii Revised Statutes, as set forth in this Act. For the purposes of determining the three-year limitations period for administrative rule adoptions, amendments, or repeals filed after December 31, 1986, but before the effective date of this Act, the three-year limitations period shall be deemed to commence on the effective date of the rule adoption, amendment, or repeal or the effective date of this Act, whichever date is later.

SECTION 5. Notwithstanding sections 3 and 4 of this Act, this Act does not affect challenges made to the validity of any administrative rule in proceedings that were begun before the effective date of this Act.

SECTION 6. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 7. This Act shall take effect upon its approval, except that to the extent that this Act applies to the adoption, amendment, or repeal of administrative rules that occurred before the enactment of this Act, this Act is intended to have retrospective effect and operation.

(Approved May 3, 1989.)

