



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

February 19, 2014

The Honorable, David Y. Ige, Chair
The Honorable, Michelle N. Kidani, Vice Chair
Senate Committee on Ways and Means
Hawaii State Capitol, Room 208
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **Testimony on S.B. No. 2518, S.D. 1, Relating to Education**

Hearing: February 19, 2014, 9:10 a.m.
State Capitol, Conference Room 211

Written Testimony From: Hawaii State Ethics Commission

The Honorable David Y. Ige, Chair; The Honorable Michelle N. Kidani, Vice Chair;
and The Honorable Members of the Senate Committee on Ways and Means:

Thank you for this opportunity to testify on S.B. No. 2518, S.D. 1, Relating to Education. This bill makes a number of amendments to Hawaii Revised Statutes ("HRS") chapter 302D, the charter school law. The Hawaii State Ethics Commission ("Commission") takes no position as to the majority of these amendments. The Commission, however, opposes an amendment located in Section 7 of the bill which amends the current law to require that any vendor or contractor providing goods or services to a charter school shall be subject to HRS chapter 84, the State Ethics Code.

The State Ethics Code is applicable to every nominated, appointed, or elected officer or employee of the State, excluding justices and judges.¹ The term "employee" is broadly defined by the State Ethics Code as including, among others, any nominated, appointed, or elected officer or employee of the State, including members of boards,

¹ HRS section 84-2 reads:

Applicability. This chapter shall apply to every nominated, appointed, or elected officer, employee, and candidate to elected office of the State and for election to the constitutional convention, but excluding justices and judges; provided that in the case of elected delegates and employees of the constitutional convention, this chapter shall apply only to the enforcement and administration of the code of ethics adopted by the constitutional convention.

commissions, and committees.² Employees of charter schools are subject to the State Ethics Code. Section 7 of S.B. No. 2518, S.D. 1, would greatly expand the jurisdiction of the Commission and require that private sector vendors and contractors also be subject to the State Ethics Code. The Commission believes that this is inappropriate and unnecessary.

As it currently reads, Section 7 of this bill would require any vendor or contractor of a charter school to be fully subject to the provisions of the State Ethics Code. These provisions include restrictions on the acceptance of gifts and provisions on conflicts of interests. Thus, any private sector vendor who sold goods to a public charter school and who also, for example, received a gift from a client, would be subject to the State Ethics Code's gifts law. The Commission believes that placing such restrictions on private sector entities is not appropriate.

Further, the Commission is unclear as to the situation this amendment is intended to address. If the concern is that a charter school employee may enter into a contract where the employee has a conflict of interest, then this is already addressed by current law. Charter school employees are subject to the State Ethics Code and its conflicts provisions would prohibit this situation. Similarly, State Ethics Code provisions concerning misuse of position and contracting also apply to employees of the charter schools.

We appreciate the opportunity to testify on S.B. 2518, S.D. 1, Relating to Education. We would like to thank the Committee for its consideration of our testimony.

² In relevant part, HRS section 84-3 reads:

“Employee” means any nominated, appointed, or elected officer or employee of the State, including members of boards, commissions, and committees, and employees under contract to the State or of the constitutional convention, but excluding legislators, delegates to the constitutional convention, justices and judges.