



HAWAII STATE ETHICS COMMISSION

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

February 10, 2015

The Honorable Mark M. Nakashima, Chair
The Honorable Jarrett Keohokalole, Vice Chair
Honorable Members
House Committee on Labor and Public Employment
Hawaii State Capitol, Room 310
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **HB No. 1501, Relating to Public Utilities**

Hearing: Tuesday, February 10, 2015, 9:00 a.m.
State Capitol, Conference Room 309

The State Ethics Commission takes no position with respect to HB No. 1501, Relating to Public Utilities, which imposes certain post-employment restrictions on members of the Public Utilities Commission (“PUC”) and its employees. The State Ethics Commission, however, has concerns about the enforcement of the provision and offers comments to assist the Committee’s understanding as to how the post-employment restrictions in the bill differ from the post-employment law contained in the State Ethics Code.

The underlying purpose of the State Ethics Code is to preserve the public’s confidence in public servants.¹ To achieve that purpose, the legislature determined the minimum standards of conduct to which an employee (or former employee) must adhere. The State Ethics Code establishes the “ethics floor;” however, the standards of conduct required of a particular agency’s employees or some other group of employees can be raised to foster public confidence that state employees are acting for the “right reasons.”

The State Ethics Code includes, among other things, post-employment provisions that are applicable to state officials and employees, including members of state boards and commissions. Specifically, the statute prohibits a former employee, for a period of 12 months after the employee leaves state employment, from representing any person or business, for a fee or other consideration, on matters: (1) involving official action by the state agency at which the former employee was employed; or (2) in which the former employee participated while an employee.²

¹ HRS chapter 84, Preamble.

² HRS section 84-18(c).

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The provision does not prohibit a former employee from accepting employment with a private organization; it simply prohibits the former employee from representing that organization before his former state agency or on matters that he worked on as an employee.

HB No. 1501 expands the post-employment restrictions for members of the PUC and PUC employees. First, the bill increases the “revolving door period” from 12 months to 24 months. Second, the bill prohibits a former PUC commissioner or employee from representing a public utility if the person is paid a fee or other consideration. The bill does not restrict the representation to matters before the PUC or on matters that the former commissioner or employee participated while employed at the PUC. Third, the bill prohibits a former commissioner or employee from accepting employment with a public utility, whether or not the former commissioner or employee represents the public utility to an outside entity.

Notwithstanding the greater post-employment restrictions contained in the bill, the State Ethics Code’s post-employment law will continue to be applicable to former PUC commissioners and employees.

The State Ethics Commission also notes that the bill proposes that the post-employment restriction be part of HRS chapter 269, the provision relating to the PUC. The State Ethics Commission’s authority is limited to administering the State Ethics Code, HRS chapter 84. Accordingly, the State Ethics Commission would apply and enforce the State Ethics Code’s post-employment provisions to former PUC commissioners and employees; however, the post-employment provisions proposed in the bill would not be administered or enforced by the State Ethics Commission.

Thank you for considering the State Ethics Commission’s testimony.