



HAWAII STATE ETHICS COMMISSION

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

February 11, 2015

The Honorable Scott Y. Nishimoto, Chair
The Honorable John M. Mizuno, Vice Chair
Honorable Members
House Committee on Legislative Management
Hawaii State Capitol, Room 439
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **Testimony on HB No. 181, Relating to Lobbying Expenditures**

Hearing: Wednesday, February 11, 2015, 2:00 p.m.
State Capitol, Conference Room 423

Thank you for the opportunity to testify on H.B. No. 181, Relating to Lobbying Expenditures. The State Ethics Commission (“Commission”) strongly supports this bill, whose purpose is to clarify and strengthen the reporting requirement for lobbying expenditures under the Lobbyists Law, Hawaii Revised Statutes (“HRS”) chapter 97.

This bill amends the Lobbyists Law in two ways: 1) it deletes language that excludes the expenses of preparing written testimony from the definition of a lobbying “expenditure;” and 2) it removes the requirement that only lobbying expenditures in excess of \$750 must be reported.

The Lobbyists Law requires lobbyists and others who meet certain threshold requirements to periodically report lobbying expenditures and contributions. The law defines “expenditure” to include a payment or anything of value, including compensation paid to a lobbyist for the performance of lobbying services; however, excluded from this definition are “the expenses of preparing written testimony and exhibits for a hearing.”

The underlying purposes of requiring lobbyists and lobbying organizations to report expenditures is to provide complete and accurate information as to how much money is spent for lobbying purposes. In excluding “the expenses of preparing written testimony and exhibits for a hearing,” it is the Commission’s understanding that the legislature intended that the costs associated with the ministerial actions (e.g., clerical, typing and copying) to prepare testimony be omitted from the calculation of lobbying expenditures. More specifically, at the time the law was enacted in 1975, all written testimony was submitted in paper format and the legislature required multiple copies of written testimony be submitted. The costs associated with formatting, copying and collating the testimony are not costs that the legislature intended be reported as lobbying expenditures.

Consistent with its understanding of the legislature's intent, the Commission has interpreted the term "expenditure," as defined in HRS section 97-1(4), to include the expenses relating to researching and drafting testimony. The Commission's interpretation is consistent with the reporting section of the Lobbyists Law which specifically requires the itemization of expenses related to the "preparation and distribution of lobbying materials."¹

The Commission believes the language excluding the expenses to prepare written testimony is now outdated and confusing. Testimony, generally, is submitted electronically, eliminating copying and collating costs. Moreover, the language may mislead filers into believing that no expenses associated with preparing testimony need be reported. Thus, filers may not be reporting the significant costs of researching and writing testimony. This misunderstanding and failure to report frustrates the purpose of the Lobbyists Law and is contrary to the Commission's interpretation of the exclusion.

House Bill 181 also amends the Lobbyists Law to delete the requirement that lobbyists and organizations report only those expenses in excess of \$750 in a reporting period. This reporting threshold in the law appears to have been intended as a way to focus the reporting requirements of the Lobbyists Law on persons and organizations that spent substantial sums of money on lobbying activities. The current law, however, includes monetary thresholds that a person or organization must meet before reporting is required. More specifically, the term "lobbyist" is defined as an individual who is paid to lobby and spends more than five hours a month or more than \$750 during a reporting period lobbying.² Similarly, the Lobbyists Law requires lobbying reports to be filed by organizations that spend more than \$750 in a six-month period lobbying, excluding travel expenses.³ Only after these threshold "triggers" are reached are reports required to be filed. This ensures that only those who spend significant amounts of money lobbying are required to file reports. It is unnecessary and contrary to the purpose of the Lobbyists Law to further limit reporting to only those expenses above the \$750 threshold amount.

In addition, last year, the statute was amended to require lobbyists and organizations to report their expenditures relating to specific categories or types. Before the statute was amended, lobbyists and organizations were required to report only the total amount expending for purposes of lobbying during the reporting period. Currently, lobbyists and organizations report, for instance, the total sum that they have expended relating to media advertising, relating to entertainment, relating to receptions, and relating

¹ HRS 97-3(c)(3)(A).

² HRS 97-1(6)

³ HRS 97-3(a)(2).

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to gifts. The Commission suggests that requiring reporting of only those expenditures over \$750 is inconsistent with the requirement that all lobbying expenses be itemized into certain categories. Stated differently, in the Commission's opinion, it is inconsistent with the intent of the reporting requirement to allow a lobbyist or organization to NOT report the first \$750 expended for lobbying purposes relating to one or more of the categories without the public having any ability to understand for which activity the expenditure was incurred.

The Commission believes that the current law is confusing and misleading to the public. Lobbying reports are meant to reflect all of the expenses made for the purpose of lobbying. The Commission believes that there is no reason to exclude the first \$750 from the reporting requirement and that to do so creates the mistaken impression that less money was spent lobbying.

To summarize, H.B. No. 181 will clarify: 1) that the expenses of researching and writing testimony should be reported; and 2) that lobbyists and organizations that meet the reporting thresholds in the law should report all of their lobbying expenses. For these reasons, the State Ethics Commission strongly supports H.B. No. 181.

Thank you for considering the Commission's testimony.