HAWAII
STATE
ETHICS
COMMISSION
State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

February 18, 2015

The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair
Honorable Members
Senate Committee on Judiciary and Labor
Hawaii State Capitol, Room 221
415 S. Beretania Street
Honolulu, Hawaii 96813

Re: **SB No. 1194, Relating to Lobbyists**

Hearing: Wednesday, February 18, 2015, 9:00 a.m.
State Capitol, Conference Room 016

The State Ethics Commission ("Commission") has strong concerns about SB No. 1194, which will require lobbyists and lobbying organizations to "electronically transmit" all required registration statements and expenditure reports, and requires the Commission to post all of the filings on its website in a "text searchable" format that can be downloaded in a spreadsheet form.

Currently, all registration statements and expenditure reports filed pursuant to the State Lobbyists Law, HRS chapter 97, are public records.[1] Moreover, all of the registration statements and expenditure reports are posted on the Commission's website as soon as practicable and, generally, within 5 working days of receipt (http://ethics.hawaii.gov/).

The Commission currently has an "electronic filing" system that allows a user to complete a fillable pdf form and to email that form to the Commission via the Commission's website. Although the Commission prefers that lobbyists and organizations file reports "electronically," i.e., via the Commission's website, it currently is not required. The Commission scans all of the paper format documents that it receives, including lobbying-related filings, and maintains those records in digital form. There is a significant administrative savings when records are transmitted to the Commission electronically.[2]

[1] HRS section 97-4(2).

[2] The Commission receives approximately 1,700 expenditure reports annually. Lobbyists and organizations involved in lobbying activities must file expenditure reports on March 31, May 31, January 31, and if there is a special legislative session, 30 days after the special session is adjourned. The Commission also receives approximately 300 registration statements from lobbyists.

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The "electronic filing" system that the Commission has implemented, however, does not work well. The Commission currently is requesting an appropriation to develop and implement an electronic filing system that works.[3] Based on price quotations the Commission has received, the Commission estimates that it will require $130,000 to develop and implement an electronic filing system. Unless the legislature appropriates sufficient funds to allow the Commission to create a system to allow and support filers' electronically transmitting the required filings, the Commission cannot implement the requirements of the bill.

Assuming that a means to successfully receive electronically transmitted reports is developed and implemented, the Commission suggests that it is unnecessary and an undue burden to require the Commission to promulgate administrative rules to prescribe "the form and manner" by which the documents must be filed. The Lobbyists Law already provides that the Commission shall prescribe forms for the filings required by the law and shall establish procedures for implementing the filing requirements.[4] In light of this, the Commission suggests that the bill's administrative rules requirement be deleted.

The Commission also has concerns about the bill's requirement that the filings be available on its website for no less than four years. Currently, the Commission posts the lobbyists' registration statements and the expenditure reports filed during the two-year registration period.[5] The Commission suggests that maintaining more statements and reports on its website may create confusion. The Commission is further concerned that the filings of certain lobbyists and organizations may be removed after the four year period but the filings of other lobbyists and organizations for the same reporting periods may continue to be posted because they were received after the other filings (e.g., some may have been filed late).

With respect to the requirement that the filings that are made available through the Commission's website be "text searchable" and "available for download in a spreadsheet format," the Commission simply needs sufficient funds to ensure that it is able to satisfy the bill's mandate. Absent sufficient funds, the Commission may not be able to implement the bill's requirements.

If the Committee believes that it is appropriate to require lobbyists and organizations to electronically transmit reports, the Commission suggests that the Committee consider implementing a "filing fee" to help with the maintenance and support of the system.

Thank you for considering the Commission's testimony.

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[3] See S.B. No. 996, Relating to Ethics, and H.B. No. 826, Relating to Ethics.

[4] HRS section 97-6(a)((2).

[5] Lobbyists must renew their registrations with the Commission biennially, every odd-numbered year.