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

March 4, 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 South Beretania Street
Honolulu, Hawaii 96813

Re: **Testimony on S.B. No. 451, Relating to Conflicts of Interest**

Hearing: Wednesday, March 4, 2015, 9:00 a.m.
State Capitol, Conference Room 016

Testifying: Leslie H. Kondo, Executive Director
Hawaii State Ethics Commission

The State Ethics Commission strongly supports S.B. No. 451, Relating to Conflicts of Interest, which amends the conflicts-of-interests section of the State Ethics Code by prohibiting state employees from taking official action directly affecting a business or undertaking in which an employee knows or has reason to know that a parent, sibling, or emancipated child has a substantial financial interest.

The purpose of S.B. No. 451 is to expand Hawaii Revised Statutes ("HRS") section 84-14(a), one of the primary provisions of the conflicts-of-interests section of the State Ethics Code. Currently, HRS section 84-14(a) prohibits state employees (including state board and commission members) from taking official action affecting a business or undertaking in which they, their spouses, or their dependent children have a substantial financial interest.

The Commission has long advocated for the expansion of this law. Under the current law, a state employee must abstain from taking official action affecting a business in which the employee, the employee's spouse, or a dependent child of the employee has a financial interest; however, a state employee is not required to abstain from taking official action affecting a business in which a parent, brother or sister, or an emancipated child holds a financial interest. For example, under the current law, an employee cannot award a state contract to a business owned by the employee's spouse, but can award a state contract to a business owned by the employee's parent, brother or sister, or emancipated son or daughter. The Commission believes that the same concerns about conflicts of interests arise when state employees take action affecting businesses or

undertakings in which close family members, such as parents, siblings, and emancipated children, hold financial interests. Such actions clearly create the appearance of a conflict of interest and undermine public confidence in government.

S.B. No. 451 expands HRS section 84-14(a) to prohibit an employee from taking official action affecting a business or undertaking in which the employee knows or has reason to know that a parent, sibling, or emancipated child of the employee has a substantial financial interest. Because a "financial interest" is defined in the law to include the interests of an individual's spouse and dependent child,[1] the Commission recommends that the bill be revised to clarify that it only applies to the financial interests of a parent, sibling, or emancipated child, and does not apply to the spouse or dependent child of a parent, sibling, or emancipated child. The Commission suggests the following language (underscored and in bold) be added to the proposed language for HRS section 84-14(a)(3) set forth in Section 1 of the bill:

> (3) A business or other undertaking in which the employee knows or has reason to know that a parent, sibling, or emancipated child of the employee has a substantial financial interest**; provided that the financial interests of a parent, sibling, or emancipated child shall not include the interests of that individual's spouse or child.**

As a point of clarification, the Commission also recommends that the following language (underscored and in bold) be added to the last paragraph of HRS section 84-14(a) set forth in Section 1 of the bill:

> [~~A~~] **With respect to paragraph (1),** a person whose position on a board, commission or committee is mandated by statute, resolution, or executive order to have particular qualifications shall only be prohibited from taking official action that directly and specifically affects a business or undertaking in which the person has a substantial financial interest; provided that the substantial financial interest is related to the member's particular qualifications.

The purpose of the State Ethics Code, as set forth in the law's preamble, is to preserve public confidence in public servants. S.B. No. 451 further serves this purpose by prohibiting employees from taking official action in situations that create or appear to create conflicts of interests.

For the reasons set forth above, the Commission strongly supports S.B. No. 451. Thank you for your consideration of the Commission's testimony.

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[1] HRS section 84-3.