



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. 476, Relating to Disclosures**

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

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

Thank you for the opportunity to testify today on S.B. No. 476, Relating to Disclosures. The Hawaii State Ethics Commission (“Commission”) has strong reservations about this bill, which requires the Commission to provide a copy of a board member’s current financial disclosure statement to the Governor, the executive director of the member’s board, and every other member of the board.

The State Ethics Code’s financial disclosure law, Hawaii Revised Statutes (“HRS”) section 84-17, requires annual financial disclosure statements to be filed with the Commission by “[t]he members of every state board or commission whose original terms of office are for periods exceeding one year and whose functions are not solely advisory.”¹ Currently there are over 800 members of over 100 boards and commissions who file financial disclosure statements with the Commission. By law, the financial disclosure statements of most board and commission members are confidential.² It appears that S.B. No. 476 is intended to apply to these confidential disclosure statements.

¹ HRS section 84-17(c)(9).

² The financial disclosure statements of seventeen boards and commissions are public records pursuant to HRS section 84-17(d). The financial disclosure statements of all other boards and commissions are confidential.

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Page 2

The stated purpose of S.B. No. 476 is to enable the Governor, executive director of a board or commission, and other board or commission members “to determine if any member may have a conflict of interest in voting on any particular matter.” The bill, however, is completely silent as to what the Governor, executive director, and board members must do with the confidential financial disclosure statements they receive. For example, the bill does not address any of the following issues: (1) how are individuals to review financial disclosure statements to determine whether a board member has a “conflict of interest;” (2) if individuals believe a board member has a conflict of interest, how is this addressed with the affected board member and what action must then be taken; (3) what happens if the affected board member disagrees that he or she has a conflict of interest; (4) must individuals report what they believe to be conflicts of interests to the Commission; and (5) are there penalties for failing to address conflicts of interests or failing to report conflicts of interests to the Commission.

Contrary to the stated purpose of the bill, S.B. No. 476 does not inform the public about potential conflicts of interests by board members and does not assure the public that such conflicts are being properly addressed. The bill states that a board member’s confidential financial disclosure statement “shall be held in the strictest confidence at all times” and that any person who releases confidential information contained in a financial disclosure statement shall be subject to enforcement proceedings and fines for violating the State Ethics Code. Thus, anyone who receives a copy of a board member’s financial disclosure statement as provided by this bill is expressly prohibited from publicly discussing or debating whether confidential information contained in the disclosure statement indicates a possible conflict of interest. Individuals who attempt to address this at a public meeting of the board may be accused of divulging confidential information and may be subject to ethics charges. Instead of promoting public confidence, this bill may generate complaints that board members are keeping information from the public about possible conflicts of interests by their fellow board members.

For the above-stated reasons, the Commission has strong reservations about S.B. No. 476 and recommends that the bill be held by this Committee. We appreciate the opportunity to testify on S.B. No. 476 and we thank this Committee for its consideration of our testimony.