



HAWAII STATE ETHICS COMMISSION

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

Committee: Committee on Consumer Protection and Commerce
Bill Number: H.B. 71
Hearing Date/Time: February 9, 2017, 2:00 p.m.
Re: Testimony of the Hawaii State Ethics Commission **SUPPORTING**
THE INTENT of H.B. 71, Relating to Ethics

Dear Chair McKelvey and Committee Members:

The Hawaii State Ethics Commission (“Commission”) supports the intent of H.B. 71 as it relates to the governor. The Commission does not have jurisdiction over county officials, such that the Commission takes no position regarding the heads of state of each county.

As an initial matter, the Commission notes that Hawaii’s fair treatment law, Hawaii Revised Statutes (“HRS”) § 84-13, already prohibits a governor from receiving a stipend or honorarium for done work (for example, giving speeches) in his/her capacity as governor. Furthermore, Hawaii’s financial disclosure law, HRS § 84-17, already requires the governor to file a disclosure of financial interests every year. The Commission also notes that the governor is already prohibited from holding “any other office or employment of profit under the State or the United States” while in office. Hawaii Const. Art. V, section 1.

As currently drafted, H.B. 71 appears to prohibit any outside employment, investment, rental income, and so on, with the exception of retirement accounts. The Commission supports legislation to help avoid conflicts of interest, but respectfully requests that, if this Committee advances H.B. 71, the Committee clarify the scope of this measure. As currently written, this measure appears to bar any income other than a governor’s salary and retirement-related income. Among other things, this measure would seem to prohibit a governor from owning mutual funds or stocks (other than in an IRA or 401K program), thus prohibiting a sitting governor from having a 529 college savings plan for the governor’s child(ren). This measure would also prohibit the governor from owning and renting out real estate; as such, this measure may prohibit a governor from renting out her/his home while residing in the governor’s mansion. This measure also does not provide an incoming governor with a grace period to sell off assets, other than the short time (roughly three weeks) between an election and inauguration. Furthermore, this measure does not appear to allow the governor to place assets in a blind trust.

The Commission does not presently take any position on whether there ought to be exceptions for any of these scenarios; instead, the Commission merely requests, respectfully, that the Legislature provide clear direction to the Commission so that it may best effectuate the Legislature’s intent.

Finally, although the Commission takes no position as to this measure's applicability to the counties, the Commission notes that the measure currently places the restriction on mayors in HRS chapter 84, the State Ethics Code. As such, the measure appears to give the State Ethics Commission jurisdiction to enforce violations of this provision against county mayors; the measure also appears to make county mayors subject to state-level fines and procedures for violations. The Committee may wish to consider whether the county ethics commissions, rather than the Hawaii State Ethics Commission, should have jurisdiction to enforce these provisions.

The Commission supports the Legislature's efforts to strengthen Hawaii's conflict of interest laws. These types of measures help to ensure that state officials focus on serving the people of Hawaii with the utmost integrity.

Thank you for considering the Commission's testimony on H.B. 71.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel