

SUNSHINE LAW MEETING  
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: February 4, 2021

Time: 9:10 a.m.

Location: Held via Zoom video and audio conference, with the Commission's Chair present in the Hawaii State Ethics Commission's conference room, American Savings Bank Tower, 1001 Bishop Street, Suite 960, Honolulu, Hawaii 96813

Present: State Ethics Commission Members

Ruth D. Tschumy, Chair (present in conference room)  
Melinda S. Wood, Vice Chair (via video conference)  
Reynard D. Grauly, Commissioner (via video conference)  
Wesley F. Fong, Commissioner (via video conference)

State Ethics Commission Staff

Daniel M. Gluck, Executive Director (via video conference)  
Susan D. Yoza, Associate Director (via video conference)  
Nancy C. Neuffer, Staff Attorney (via video conference)  
Virginia M. Chock, Staff Attorney (via video conference)  
Kee M. Campbell, Staff Attorney (via video conference)  
Patrick Lui, Computer Specialist (via audio conference)

Guests

Sandy Ma, Executive Director, Common Cause Hawaii

Note: There was a vacancy on the Commission at the time of this meeting. Several other members of the public attended but did not wish to identify themselves.

**CALL TO ORDER**

Chair Tschumy called the meeting to order at 9:15 a.m. and confirmed that all Commissioners and staff were present. Sandy Ma, Executive Director of Common Cause Hawaii, was in attendance as well. Chair Tschumy asked if any other members of the public attending the meeting wished to identify themselves; none wished to do so.

## **Agenda Item No. I: 2021 Legislative Session**

Executive Director Gluck thanked the Commissioners for convening for a special meeting to consider proposed legislation; Executive Director Gluck stated that he wanted to ensure that any testimony on bills represented the Commission's views and not just those of staff. Executive Director Gluck recommended that the Commission review the bills by category, and the Chair agreed.

### a. Gifts and gifts reporting

Executive Director Gluck summarized the bills related to gifts and gifts reporting – H.B. 1108, H.B. 1163, H.B. 645, S.B. 991, and S.B. 1326 – designed in some way to overturn the Commission's recent administrative rules on gifts. Executive Director Gluck discussed the rules and reported, in general terms, the questions he has received and discussions he has had with legislators. Executive Director Gluck stated that staff recommends that the Commission oppose all five bills, inasmuch as these legislative proposals are not good policy and do not provide additional clarity. The Commissioners discussed these proposals.

### b. Public accountability agency

Executive Director Gluck summarized the bills – H.B. 1341, S.B. 1350, and S.B. 1351 – which, according to floor speeches in the House of Representatives, are designed to “reimagine government.” Executive Director Gluck recommended that the Commission oppose these measures. Executive Director Gluck stated that both Connecticut and Wisconsin already consolidated their good government agencies, and in both instances, the agencies were un-consolidated after just a few years. In both instances, states spent a significant amount of money to establish the agencies, and then a significant amount of money to undo that consolidation. Executive Director Gluck stated that the bills are problematic because they result in having one person atop a huge watchdog agency, thus giving one person an incredible amount of power. The bills might be unconstitutional to the extent they purport to give someone other than the Ethics Commission the authority to administer the Ethics Code. Finally, because each agency has different confidentiality rules, combining the agencies might result in problems in conducting confidential investigations.

### c. Post-employment

Executive Director Gluck summarized the bills – H.B. 671 and S.B. 158 – and recommended that the Commission support them. Executive Director Gluck explained that these bills revived the measure that was vetoed last year – H.B. 2124 – but addressed the Governor's concern with volunteer board and commission members.

### d. Conflicts of Interests

Executive Director Gluck summarized the bills – H.B. 672, H.B. 798, and S.B. 556 – and recommended that the Commission support them.

e. Financial Disclosures

Executive Director Gluck summarized S.B. 554 and recommended that the Commission oppose it.

f. Fair Treatment

Executive Director Gluck summarized H.B. 1244. Executive Director Gluck surmised that the intent of the measure may be to allow legislators to use photos of themselves from the Capitol floor in campaign materials. Executive Director Gluck explained the general Fair Treatment rules with respect to government images. He stated that he would probably recommend that the Commission submit comments on this measure. The Commissioners discussed the matter.

g. Lobbyist Law

Executive Director Gluck summarized S.B. 557 and recommended that the Commission support the measure. Executive Director Gluck also summarized H.B. 741 and recommended that the Commission submit comments.

h. Budget

Executive Director Gluck reported that H.B. 1 would cut the Commission's budget by 20%. He recommended that the Commission support it while noting that the decreased budget would limit the Commission's work.

i. Short form bills

Executive Director Gluck stated that, as usual, there were many short form bills on topics that could affect the Commission, but that – right now – these bills have no content. As such, staff would monitor these bills for now.

j. Other

Executive Director Gluck summarized H.B. 10, H.B. 356, H.B. 1064/S.B. 1218, and H.B. 1075. Executive Director Gluck also summarized S.B. 610, but because the bill was not listed on the Commission's sunshine agenda, he advised the Commission not to discuss or act on the measure until its next meeting.

Executive Director Gluck recommended that the Commission submit comments on H.B. 10 consistent with past testimony. He stated that staff had already submitted testimony on H.B. 356, and the legislative committee indicated it would incorporate our concerns. Executive Director Gluck recommended that the Commission continue to support confidentiality in Judicial Council deliberations/interviews of potential Commissioners. As to H.B. 1064/S.B. 1218, the technology transfer bills, Executive Director Gluck stated he needed to discuss the measures with University of Hawai'i personnel. He recommended that the Commission's testimony would depend upon the

status of the University's policies and procedures for technology transfer activities: if the University has completed its policies and procedures, the Commission could submit comments on the bills or remain silent, but if the University has not finished its work, the Commission would oppose the bills' outright repeal of the sunset provision. Finally, Executive Director Gluck recommended that the Commission submit comments on H.B. 1075, regarding the Lieutenant Governor's outside employment.

Chair Tschumy asked that Executive Director Gluck summarize staff's recommendation on each bill. Commissioner Fong suggested that the discussion proceed by category.

a. Gifts and gifts reporting

Sandy Ma testified that Common Cause was more concerned about the amount of time that lobbyists interact with legislators than the amount of the gifts, although she recognized that this is difficult to regulate.

Executive Director Gluck stated that staff's recommendation is for the Commission to oppose all five bills.

Chair Tschumy asked whether there was any other public testimony on these or any other legislative measures; none of the public attendees had other testimony.

The Commissioners discussed the gifts rules further.

Vice Chair Wood made a motion to follow staff's recommendation on these measures.

Commissioner Fong made a motion to oppose H.B. 1108, H.B. 1163, H.B. 645, S.B. 991, and S.B. 1326.

Commissioner Grauly seconded Vice Chair Wood's motion.

Commissioner Fong withdrew his motion.

Vice Chair Wood's motion carried unanimously (Tschumy, Wood, Grauly, and Fong voting).

b. Public accountability agency

Executive Director Gluck stated that staff's recommendation is for the Commission to oppose all three bills.

Commissioner Grauly made and Commissioner Fong seconded a motion to follow staff's recommendation on these measures. The motion carried unanimously (Tschumy, Wood, Grauly, and Fong voting).

c. Post-employment

Executive Director Gluck stated that staff's recommendation is for the Commission to support both bills.

Commissioner Grauly made and Vice Chair Wood seconded a motion to follow staff's recommendation on these measures. The motion carried unanimously (Tschumy, Wood, Grauly, and Fong voting).

d. Conflicts of interests

Executive Director Gluck stated that staff's recommendation is for the Commission to support all three bills.

Commissioner Grauly made and Vice Chair Wood seconded a motion to follow staff's recommendation on these measures. The motion carried unanimously (Tschumy, Wood, Grauly, and Fong voting).

e. Financial Disclosures

Executive Director Gluck stated that staff's recommendation is for the Commission to oppose this bill.

Vice Chair Wood made and Commissioner Grauly seconded a motion to follow staff's recommendation on these measures. The motion carried unanimously (Tschumy, Wood, Grauly, and Fong voting).

f. Fair treatment

Executive Director Gluck stated that staff's recommendation is for the Commission to submit comments.

Commissioner Fong made a motion for the Commission to remain silent on the measure. Executive Director Gluck stated that he preferred that the Commission submit testimony on ethics-related issues so that, if legislators have questions, staff is available to assist with technical aspects of the measure. Commissioner Fong amended his motion to follow staff's recommendation to submit comments to the Legislature on this measure. Commissioner Grauly seconded the motion. The motion carried unanimously (Tschumy, Wood, Grauly, and Fong voting).

g. Lobbyist Law

Executive Director Gluck stated that staff's recommendation is for the Commission to support S.B. 557 and to submit comments on H.B. 741.

Commissioner Graulty made and Commissioner Fong seconded a motion to follow staff's recommendation on these measures. The motion carried unanimously (Tschumy, Wood, Graulty, and Fong voting).

h. Budget

Executive Director Gluck stated that staff's recommendation is for the Commission to support this measure, but with the caveat that the proposed budget cuts will adversely impact operations.

Commissioner Graulty made and Commissioner Fong seconded a motion to follow staff's recommendation on this measure. The motion carried unanimously (Tschumy, Wood, Graulty, and Fong voting).

i. Short form bills

Executive Director Gluck stated that no vote was needed on these measures at this time.

j. Other

Executive Director Gluck stated that staff's recommendation is to submit comments on H.B. 10, H.B.356, and H.B. 1075, and to submit testimony on the technology transfer bills (H.B. 1064 / S.B. 1218) dependent upon the University's progress on its technology transfer policy framework. Executive Director Gluck recommended opposing the measures if the University's technology transfer framework is not in place and submitting comments if the framework is in place.

Commissioner Fong made and Commissioner Graulty seconded a motion to follow staff's recommendations on these measures. The motion carried unanimously (Tschumy, Wood, Graulty, and Fong voting).

Vice Chair Wood requested that Executive Director Gluck summarize the Commission's positions on all the above-referenced bills, and Executive Director Gluck did so.

**Agenda Item No. II: Personnel matters**

Executive Director Gluck stated that Secretary/Paralegal Napua Yasuda was leaving the Commission the following day. The Commissioners wished her well. Executive Director Gluck stated that he intended to leave the position open because of budget cuts, although he indicated that this will strain staff resources and reduce output from the office as a whole.

Chair Tschumy asked whether any member of the public wished to testify on any of the agenda items. Judge Riki May Amano (ret.) thanked the Commission for its work. No other member of the public offered any testimony.

### **ADJOURNMENT OF SUNSHINE LAW MEETING**

At approximately 10:30 a.m., Commissioner Graulty made and Vice Chair Wood seconded a motion to adjourn the Sunshine Law Meeting. The motion carried unanimously (Tschumy, Wood, Graulty, and Fong voting).

The meeting was adjourned at 10:30 a.m.

Minutes approved on: February 18, 2021