

**SB2682**



# HAWAII STATE ETHICS COMMISSION

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

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February 7, 2014

The Honorable Clayton Hee, Chair February 22, 2011  
The Honorable Maile S. L. Shimabukuro, Vice Chair  
Senate Committee on Judiciary and Labor  
Hawaii State Capitol, Room 407  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: **Testimony on S.B. No. 2682, Relating to Financial Disclosure Statements**

Hearing: Friday, February 7, 2014, 10:00 a.m.  
State Capitol, Conference Room 016

Testimony From: Hawaii State Ethics Commission

The Honorable Clayton Hee, Chair; The Honorable Maile S.L. Shimabukuro, Vice Chair;  
and The Honorable Members of the Senate Committee on Judiciary and Labor:

Thank you for this opportunity to testify on S.B. No. 2682, Relating to Financial Disclosure Statements. While the Hawaii State Ethics Commission (“Commission”) generally supports increased public disclosure, the Commission has concerns about the wording of the bill. The Commission recommends that the Committee consider substituting the wording of the bill with the wording proposed below.

S.B. No. 2682 amends Hawaii Revised Statutes (“HRS”) section 84-17, the financial disclosure section of the State Ethics Code, by requiring that financial disclosure statements filed by “[p]aid members of a state board or commission . . . that is authorized to approve contracts or expenditures of more than \$1,000,000” be available to and accessible by the public.

Currently, almost 1,800 state employees and members of state boards and commissions are required to file annual financial disclosure statements with the Commission. Of those, approximately 180 employees’ disclosures are deemed to be public records, which the Commission makes available through its website. The other approximately 1,600 employees’ disclosures are, by law, confidential and available only to the Commission.

Because of the sheer volume of filings, the Commission's finite resources, and the Commission's limited knowledge about the employees, their official duties, and their financial interests, the Commission's ability to identify potential conflicts of interest is very limited and, frankly, except in rare circumstances, unlikely. For that reason, the Commission generally supports more public disclosure. Members of the public, especially those who are involved with and may be impacted by the board or commission member's action, are best able to identify and raise concerns about possible conflicts of interest.

With respect to the bill, the Commission is unsure as to which boards are intended to be captured by this bill. It is the Commission's understanding that there are only three state boards and commissions whose members are paid: the Hawaii Labor Relations Board, the Labor and Industrial Relations Appeals Board, and Public Utilities Commission. The Commission is unaware as to which, if any, of these boards is authorized to expend \$1,000,000 or more. If the intent is to allow the public access to the financial disclosure statements filed by members of one or more of these boards, the Commission suggests that the bill specifically identify the board or boards by title. This would be consistent with the current language of HRS 84-17 and would allow the Commission to better administer and enforce that section of the statute.

If the bill's purpose is to increase transparency and to better achieve the State Ethics Code's underlying purpose of fostering public confidence in state government, the Commission strongly recommends that the Committee consider requiring members of a number of other boards -- those boards and commissions that are the "head" of a state department and vested with significant authority -- to file public financial disclosure statements. The Commission suggests that the Committee consider adopting the language of S.B. No. 432, which amends HRS section 84-17 to require the filing of public financial disclosure statements by members of:

1. The Board of Regents
2. The Board of Agriculture
3. The Board of Land and Natural Resources
4. The Hawaii Labor Relations Board
5. The Hawaiian Homes Commission
6. The Labor and Industrial Appeals Board

## 7. The Public Utilities Commission<sup>1</sup>

The Board of Regents, the Board of Agriculture, the Board of Land and Natural Resources, and the Hawaiian Homes Commission each function as the “executive board” of a department in the executive branch. Each of these boards serves in a capacity akin to the department director and is responsible for the department’s operation. Under the State Ethics Code, a single executive (i.e., department director) who heads a department is required to file a public financial disclosure statement. The members of an executive board function the same as the single executive of a department; however, the members of an executive board currently are not required to file public financial disclosure statements. The Commission believes that this is inconsistent and that all individuals responsible for departmental policy and operations should be held to the same requirements of disclosure.

With regard to the University of Hawaii, the president, the vice presidents, the assistant vice presidents, the chancellors, and the provosts -- all of whom are subordinate to the Board of Regents -- are required to file public financial disclosure statements,<sup>2</sup> yet members of the Board of Regents currently are not subject to this requirement.

The Hawaii Labor Relations Board, the Labor and Industrial Relations Appeals Board, and the Public Utilities Commission do not function as executive boards that run departments, but each of these boards is a state agency vested with significant

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<sup>1</sup> S.B. 432 amends HRS section 84-17(d) to read:

**84-17 Requirements of disclosure** (d) The financial disclosure statements of the following persons shall be public records and available for inspection and duplication:

....

(4) The members of the board of regents, the president, the vice presidents, the assistant vice presidents, the chancellors, and the provosts of the University of Hawaii;

....

(8) The members of the following boards and commissions:

(A) The board of agriculture;

(B) The board of land and natural resources;

(C) The Hawaii labor relations board;

(D) The Hawaii homes commission;

(E) The labor and industrial relations appeals board; and

(F) The public utilities commission.

<sup>2</sup> HRS section 84-17(d)(4).

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adjudicatory and/or regulatory authority. The members of the Hawaii Labor Relations Board, the Labor and Industrial Relations Appeals Board, and the Public Utilities Commission are full time, paid, state employees.

Given the underlying purpose of the State Ethics Code, i.e., to foster public confidence in state government, the Commission believes that allowing public review of the financial disclosure statements filed by the members of the boards and commissions identified in S.B. No. 432 is consistent with that purpose, and strongly urges the Committee to adopt language requiring the filing of public financial disclosure statements by members of these boards and commissions.

We appreciate the opportunity to testify on S.B. No. 2682, Relating to Financial Disclosure Statements. We would like to thank this Committee for its consideration of our testimony.



HAWAII  
STRATEGIC  
DEVELOPMENT  
CORPORATION

Written Statement of

**KARL FOOKS**  
**President**

Hawaii Strategic Development Corporation

Before the  
**COMMITTEE ON JUDICIARY & LABOR**

**February 7, 2014**  
**10:00 AM**  
**State Capitol, Conference Room 16**

In consideration of  
**SB 2682 RELATING TO FINANCIAL DISCLOSURE STATEMENTS**

Chair Hee, Vice Chair Shimabukuro and Members of the Committee on Judiciary & Labor:

The Hawaii Strategic Development Corporation (HSDC) respectfully submits comments on SB 2682, legislation that requires public disclosure of financial disclosure statements filed by certain paid state board or commission members.

It is our interpretation that this measure is meant to apply to state boards and commissions members who are paid a salary for their service, as opposed to those who serve without compensation but may be reimbursed for expenses, including travel expenses, incurred in the performance of their duties. Therefore, we recommend adjusting the language in this measure to reflect this intent.

Thank you for the opportunity to provide testimony.