



HAWAII STATE ETHICS COMMISSION

State of Hawaii · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawaii 96813
50th ANNIVERSARY 1968-2018

Committee: Committee on Finance
Bill Number: H.B. 71 HD1
Hearing Date/Time: February 22, 2018, 1:30 p.m.
Re: Testimony of the Hawaii State Ethics Commission **SUPPORTING THE INTENT** of H.B. 71 HD1, Relating to Ethics

Dear Chair Luke and Committee Members:

The Hawaii State Ethics Commission (“Commission”) supports the intent of H.B. 71 HD1 as it relates to the governor. 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.

The Commission respectfully requests clarification as to whether H.B. 71 HD1 is intended to give the Commission enforcement authority over county mayors. The Commission does not have jurisdiction over county officials, such that the Commission takes no position as to whether the county mayors ought to be included in this type of provision; the inclusion of mayors in a provision of the State Ethics Code, however, suggests that the Legislature intends to have the Commission enforce this provision against county mayors. If that is the Legislature’s intent, the Commission respectfully requests that the Department of the Attorney General opine as to whether Article XIV of the Hawaii Constitution permits the State Ethics Commission to oversee the activities of the county mayors.

H.B. 71 HD1 places the restriction on mayors in Hawaii Revised Statutes (“HRS”) chapter 84. 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 State Ethics Commission, should enforce these provisions. See Hawaii Const., article XIV.

The Commission also notes that Hawaii’s fair treatment law, 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 public disclosure of financial interests every year. Similarly, 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.

Thank you for considering the Commission’s testimony on H.B. 71. HD1.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel

HB-71-HD-1

Submitted on: 2/21/2018 12:52:56 PM

Testimony for FIN on 2/22/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Rachel L. Kailianu	Ho`omana Pono, LLC	Support	Yes

Comments:

HB-71-HD-1

Submitted on: 2/20/2018 7:53:08 PM

Testimony for FIN on 2/22/2018 1:30:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
lynne matusow	Individual	Support	No

Comments:

This is a no brainer. The chief executives of the counties and state should not have a second, or third, or fourth job. Their duty is to act in their role as cheif executive.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:
H.B. NO. 71, H.D. 1, RELATING TO ETHICS.

LATE

BEFORE THE:
HOUSE COMMITTEE ON FINANCE

DATE: Thursday, February 22, 2018 **TIME:** 1:30 p.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Russell A. Suzuki, Acting Attorney General, or
Robyn Chun, Deputy Attorney General

Chair Luke and Members of the Committee:

The Department of the Attorney General (“Department”) supports the intent of this bill but respectfully requests that the bill be amended as suggested below.

The purpose of this bill is to amend the State Ethics Code, chapter 84, Hawaii Revised Statutes, to include a provision that will prohibit any Governor or county Mayor, while serving in their respective capacities as Governor or Mayor, from maintaining any other employment or receiving any emolument beginning on the 61st calendar day after their election or appointment to office.

The State Constitution, provides in relevant part, that the “legislature, each political subdivision and the constitutional convention shall adopt a code of ethics which shall apply to appointed and elected officers and employees of the state or the political subdivision, respectively, including members of the boards, commissions and other bodies.” See Art. XIV, State Constitution. Thus, the State, the counties, and the constitutional convention are mandated to adopt their own ethics code.

In accordance with article XIV, the State Ethics Code applies to “every nominated, appointed, or elected officer, employee, and candidate to elected office of **the State** and for election to the constitutional convention, but excluding justices and judges” Haw. Rev. Stat. § 84-2. Thus, based on the plain language of the statute, the State Ethics Code expressly applies to all elected and appointed State officials and

employees other than justices and judges, but it does not apply to the counties, which are constitutionally mandated to adopt their own ethics code.

As a result, amending chapter 84, the State Ethics Code, to include a provision prohibiting a sitting Mayor from maintaining outside employment or receiving emoluments may be vulnerable to a legal challenge that the State Ethics Code does not apply to county officials and cannot therefore be enforced against a sitting Mayor. To avoid this potential challenge, we suggest that this bill be amended to add this provision to chapter 78, Public Service, Hawaii Revised Statutes, which pertains to State and county officers and employees or, alternatively, that this bill be amended to delete the references to “county mayor”.

Thank you for the opportunity to provide these comments.



LATE

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HOUSE COMMITTEE ON FINANCE

Thursday, February 22, 2018, 1:30 PM, Conference Room 308
HB 71, HD1, Relating to Ethics

TESTIMONY

Piilani Kaopuiki, Legislative Committee, League of Women Voters of Hawaii

Chair Luke, Vice Chair Cullen and Committee Members:

The League of Women Voters of Hawaii supports HB 71 HD1 that prohibits a sitting governor or mayor from maintaining outside employment or receiving emoluments.

In continuing to support this bill, the amendments are also positive mechanisms to implement the very good intent of this bill.

Thank you for the opportunity to submit testimony.

LATE

Mufi F. Hannemann
Former Mayor, City & County of Honolulu

Testimony of

Mufi Hannemann
Former Mayor of Honolulu

Committee on Finance

February 22, 2018

House Bill 71, H.D. 1: Relating to Ethics

Chair Luke, Vice Chair Cullen, and committee members:

Mahalo for the opportunity to offer testimony on House Bill 71, H.D. 1, which would prohibit a sitting governor or mayor from maintaining outside employment or receiving emoluments.

Whenever a public official holds outside employment or has business interests that could be affected by government actions, there is the potential for conflicts of interest to arise. We must ensure that those in public office follow a code of ethics to ensure that the people's interests are paramount in decisions, not personal benefit or enrichment.

Hawai'i has been fortunate to have so many highly qualified office-seekers because of their desire to participate in our democracy, contribute to our society, and serve the community, not for personal gain. Aside from legislators who are permitted to have outside employment in keeping with their status as part-time citizen-legislators, Hawai'i's governors and mayors, with one exception, have withdrawn from their private profession or refused to accept outside compensation while serving as the chief executive officers of their jurisdictions. There is no sound reason for a governor or mayor to hold another paying position as it raises concerns about conflicts of interest and detracts from their many public responsibilities and obligations to the people they were elected to serve.

For these reasons, I support this measure.

Mahalo.

HB-71-HD-1

Submitted on: 2/22/2018 11:31:46 AM

Testimony for FIN on 2/22/2018 1:30:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Brian Hyatt	Individual	Support	No

Comments:

To: Finance Committee

From: Brian Hyatt

Aloha! My name is Brian Hyatt and I am a senior at Kalaheo High School. I am writing to give my support for bill HB71, which prohibits any Governor or county Mayor to maintain any other employment while serving in office. According to the National Conference of State legislatures website, 17 states already have laws like this. When a Governor or Mayor holds employment in a company, it is very possible that they could make decisions based on how their business will be impacted.

According to "Hawaii News Now" Mayor Kirk Caldwell currently makes more money as a director of a bank than he does as our mayor. Although there have been no proven ties between his bank and his position in office, it is foolish to think that a Governor or Mayor could not be influenced to help their business.

Thank you for your time and support for HB71.