



HAWAII STATE ETHICS COMMISSION

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

Committee: Committee on Judiciary
Bill Number: H.B. 169, H.D.1, S.D.1
Hearing Date/Time: March 29, 2019, 9:30 a.m.
Re: Testimony of the Hawai‘i State Ethics Commission in **SUPPORT** of
H.B. 169, H.D.1, S.D.1, Relating to the State Ethics Code

Dear Chair Rhoads, Vice Chair Wakai, and Committee Members:

The Hawai‘i State Ethics Commission (“Commission”) supports H.B. 169, H.D.1, S.D.1, which makes several modest amendments to the Ethics Code, Hawai‘i Revised Statutes (“HRS”) chapter 84.

Section 2: Gifts reporting law

Currently, the reporting period for each gifts disclosure statement is from June 1 of the preceding calendar year through June 1 of the year of the report, meaning that any gift received on June 1 technically must be reported twice. The Commission supports the proposed amendment to HRS § 84-11.5, which changes the reporting period to be June 1 to May 31 – exactly one year – rather than a year and a day.

The gifts reporting law also currently requires that “[e]very legislator and employee” file a gifts disclosure statement, but is unclear as to whether that requires former employees/legislators to file gifts disclosure statements. (For example, if a legislator receives a gift in February and leaves office in March – prior to the gifts disclosure statement deadline in June – the legislator may never file a gifts disclosure statement.) The proposed amendment to HRS § 84-11.5 would make clear that gifts received while a legislator or employee is in office must be reported by June 30, even if the legislator or employee leaves office prior to June 30.

Section 3: Retention of financial disclosure statements

Currently, the Commission is required to retain financial disclosure statements for six years after the filer leaves state office; H.B. 169 would change the retention period to six years total, which is consistent with the statute of limitations for violations of the Ethics Code.

Given that the Commission is required to destroy the records six years after the filer leaves office, the current system requires the Commission to track the employment status of several thousand individuals to ensure that records are destroyed as required by statute. As one may imagine, this is administratively difficult for the Commission. Further, because the limitations period for Ethics Code violations is six years, there does not seem to be much reason to hold financial disclosure statements for longer than six years. As such, the Commission

respectfully requests that financial disclosure statements be maintained for six years after filing, rather than for six years after the filer leaves state office.

Section 4: Transcripts

The Commission supports the proposed amendment to delete the final sentence of HRS § 84-31(c) regarding access to transcripts of contested case hearings. The existing statutory language conflicts with the policies underlying the Uniform Information Practices Act, insofar as contested case hearings before the Commission are public (and there does not seem to be any public policy favoring a restriction on access to transcripts). As such, the Commission supports the proposed amendment to HRS § 84-31(c).¹

Section 5: Ethics training

While the Commission supports mandatory ethics education, the Commission believes the amendments in H.B. 169, H.D.1, S.D.1 would provide some needed flexibility in training.

In 2018, the Commission conducted 32 training sessions for 1,536 individuals. Generally, the Commission staff can conduct a full training session, covering all aspects of the Ethics Code, in about 90 minutes; by law, however, certain high-level state officials are required to attend a training that lasts a minimum of two hours, resulting in some training sessions that take up unnecessary and precious time for both trainees and Commission staff.

H.B. 169, H.D.1, S.D.1 also eliminates language requiring the Commission to conduct mandatory training in January of each year for officials who have not previously attended the course. New state officials often complain that January is the most difficult time to attend an ethics training because of the start of legislative session (and the need to prepare for – and attend – legislative briefings). The Commission offers training throughout the year, and the Commission would like the flexibility to continue to schedule mandatory training sessions at regular intervals to accommodate newly elected or appointed officials.

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on H.B. 169, H.D.1, S.D.1.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel

¹ There is a separate issue as to the cost for respondents and the public to access these transcripts; while the Legislature is obviously welcome to address that issue via statute as well, the Commission believes it can resolve that question via administrative rule.

HB-169-SD-1

Submitted on: 3/27/2019 10:29:26 AM

Testimony for JDC on 3/29/2019 9:30:00 AM

| Submitted By | Organization | Testifier Position | Present at Hearing |
|---------------------|------------------------------------|---------------------------|---------------------------|
| Barbara Polk | Testifying for Common Cause Hawaii | Support | No |

Comments:

Common Cause Hawaii supports HB169 to update and clarify portions of the Ethics Code with respect to reporting of gifts and urges its passage.