



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
Hearing Date/Time: February 1, 2019, 2:00 p.m.
Re: Testimony of the Hawai‘i State Ethics Commission in **SUPPORT** of
H.B. 169, Relating to the State Ethics Code

Dear Chair Lee and Committee Members:

The Hawai‘i State Ethics Commission (“Commission”) supports H.B. 169, 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 respectfully requests that the reporting period be exactly one year (rather than a year and a day) and thus changed to June 1 to May 31.

Additionally, the gifts reporting law currently requires “[e]very legislator and employee” to 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: Ethics training

While the Commission supports mandatory ethics education, the Commission believes the amendments in H.B. 169 would provide some 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 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.

Additional requested amendment

The Commission also respectfully requests an additional section be inserted (as Section 5) to H.B. 169, which would delete the final sentence of HRS § 84-31(c), as follows:

SECTION 5. Section 84-31, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

(c) If after twenty days following service of the charge and further statement of alleged violation in accordance with this section, a majority of the members of the commission conclude that there is probable cause to believe that a violation of this chapter or of the code of ethics adopted by the constitutional convention has been committed, then the commission shall set a time and place for a hearing, giving notice to the complainant and the alleged violator. Upon the commission's issuance of a notice of hearing, the charge and further statement of alleged violation and the alleged violator's written response thereto shall become public records. The hearing shall be held within ninety days of the commission's issuance of a notice of hearing. If the hearing is not held within that ninety-day period, the charge and further statement of alleged violation shall be dismissed; provided that any delay that is at the request of, or caused by, the alleged violator shall not be counted against the ninety-day period. All parties shall have an opportunity (1) to be heard, (2) to subpoena witnesses and require the production of any books or papers

relative to the proceedings, (3) to be represented by counsel and (4) to have the right of cross-examination. All hearings shall be in accordance with chapter 91. All witnesses shall testify under oath and the hearings shall be open to the public. The commission shall not be bound by the strict rules of evidence but the commission's findings must be based upon competent and substantial evidence. All testimony and other evidence taken at the hearing shall be recorded. ~~[Copies of transcripts of such record shall be available only to the complainant and the alleged violator at their own expense, and the fees therefor shall be deposited in the State's general fund.]~~

The stricken language above 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 requests this amendment to HRS § 84-31(c) as well.¹

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

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 Late



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COMMITTEE ON JUDICIARY

Friday, February 1, 2019, 2 PM, room 325

HB 169, RELATING TO THE STATE ETHICS CODE

TESTIMONY

Nina Eejima, Legislative, League of Women Voters of Hawaii

Chair Lee, Vice-Chair San Buenaventura, and Committee Members:

The League of Women Voters of Hawaii supports HB 169 that clarifies certain provisions of the state ethics code with respect to gift disclosure statements, the retention of financial disclosure statements, and ethics training.

We support this proposed act because the League of Women Voters strongly believes in the promotion of an open governmental system that is representative, accountable, effective, and responsive. These proposed clarifying provisions strengthen the internal consistency of the act which in turn strengthen the promotion of an open governmental system.

Thank you for the opportunity to submit testimony.