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## 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. 391 HD 1  
Hearing Date/Time: February 26, 2019, 2:05 p.m.  
Re: Testimony of the Hawai‘i State Ethics Commission  
**SUPPORTING THE INTENT** of H.B. 391 HD 1, Relating to Ethics

Dear Chair Lee and Committee Members:

The Hawai‘i State Ethics Commission (“Commission”) supports the intent of H.B. 391 HD1, which generally seeks to enact a state-law equivalent of the federal Hatch Act.

The Commission supports efforts to ensure that state officials work to promote the best interests of the people of Hawai‘i. As such, the Commission supports legislation to protect state officials – and the public – from coercion by high-level state employees; likewise, the Commission supports legislation to ensure that state programs are administered in a non-partisan fashion. If the Legislature intends to include all state officials “who regularly engage in adjudicatory, regulatory, law enforcement, or investigatory duties,” the Committee may wish to include the Ethics Commission in the list of “covered employees” on page 3.<sup>1</sup>

For the purposes of clarity and consistency, on page 6, line 17, the Committee may wish to use the defined term “covered employee” rather than the phrase “officer or employee subject to this part.”

Thank you for your continuing support of the Commission’s work and for considering the Commission’s testimony on H.B. 391 HD 1.

Very truly yours,

Daniel Gluck  
Executive Director and General Counsel

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<sup>1</sup> The Commission notes, however, that Hawai‘i Revised Statutes § 84-35.5 provides: “The members of the ethics commission and its staff shall not take an active part in political management or in political campaigns during the term of office or employment.”



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## COMMITTEE ON JUDICIARY

Tuesday, February 26, 2019, 2:05 PM, Room 325

HB 391 HD1, RELATING TO ETHICS

### 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 the intent* of HB 391 HD1 that aims to establish restrictions on the participation in partisan political activities of certain state employees and officers who regularly engage in adjudicatory, regulatory, law enforcement, or investigatory duties.**

Initially we note that similar to the Hatch Act of 1939 (and its subsequent amendments in 1993 and 2012), the proposed measure would provide for explicit restrictions on the participation in political activities of state government officers and employees who are employed or hold office in state positions with adjudicatory, regulatory, law enforcement, or investigative responsibilities as a regular part of their duties. This state regime would aim to ensure that political activity by these officers and employees does not compromise public confidence and trust in government. We support this objective.

We further note that there are some substantial differences between the Hatch Act and the proposed measure, which differences will require careful analyses of the potential impacts on participatory, democratic civic participation. For example, the 1993 amendments to the Hatch Act included removal of the prohibition on participation in “political management or political campaigns.” The proposed measure reflects such a prohibition.

In addition, federal employees are forbidden from engaging in political activities while on duty or on federal property. HB 391 HD1 contains no such provision regarding covered state employees while on duty or on state property. Furthermore, the 2012 amendments include a provision that addresses a



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violation of the Hatch Act, namely a federal employee is subject to disciplinary action in addition to removal. In this regard, HB 391 HD1 is silent, except as to provide for a monetary fine for a code violation.

Finally, we note that the Hatch Act reference to “active participation” by a federal employee in political activities has been subject to substantial litigation. Some of the activities that have been allowed under the Hatch Act, but would seem to be prohibited by the proposed measure include:

- Voter registration drives
- Attending and being active at political rallies and meetings
- Active membership in a political party
- Campaigning for/against a partisan candidate
- Distributing campaign literature
- Holding office in political clubs or parties

Finally, we emphasize our support for the objectives that this measure would address. By the same token, we urge a thoughtful and thorough examination of this measure with all stakeholders, one that carefully weighs the relevant public policy and constitutional implications, taking into account the federal Hatch Act precedents.

Thank you for the opportunity to submit this testimony.