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## HAWAI‘I STATE ETHICS COMMISSION

State of Hawai‘i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai‘i 96813

Committee: Committee on Judiciary  
Bill Number: H.B. 361, HD1, SD1  
Hearing Date/Time: Tuesday, January 28, 2020, 10:15 a.m.  
Re: Testimony of the Hawai‘i State Ethics Commission  
**SUPPORTING THE INTENT** of H.B. 361, Relating to Emoluments

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

The Hawai‘i State Ethics Commission (“Commission”) supports the intent of H.B. 361, which seeks to promote integrity in government by addressing potential conflicts of interests.

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. Indeed, it appears as though the Committee on Government Operations had intended to amend this measure to provide that “the respective county boards and commissions shall have enforcement authority over the prohibition against outside employment and emoluments for each county [Mayor.]”<sup>1</sup> [Sen. Stand. Comm. Rep. 1363 \(2019\)](#). However, the SD1 continues to give the State Ethics Commission such authority: “The Hawaii state ethics commission, responsible for interpreting and enforcing the state’s code of ethics, shall have the authority to enforce this section.” Such language could raise concerns under article XIV of the Hawai‘i Constitution, which provides in relevant part: “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. Each code of ethics shall be administered by a separate ethics commission[.]” While the Commission stands ready to carry out the law as directed by the Legislature, the Commission respectfully suggests that jurisdiction over county officials remain with the county ethics commissions.

With respect to the governor, the Commission notes that Hawaii’s fair treatment law, Hawai‘i Revised Statutes (“HRS”) § 84-13, already prohibits a governor from receiving a stipend or honorarium for doing 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, and the governor is already prohibited from holding “any other office or employment of profit under the State or the United States” while in office. Hawai‘i Const. Art. V, section 1.

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<sup>1</sup> The Report Description for HB361 likewise states: “Specifies that the county boards and commissions have enforcement authority over each respective county mayor.”

Finally, the Commission respectfully submits that, in Section 3 of this measure, the language of proposed subsection (c) is likely superfluous: there is already language in HRS chapter 84 giving the Commission jurisdiction to take action on any alleged violations of any provision of chapter 84. HRS § 84-31(a)(6) (the Commission “shall have jurisdiction for purposes of investigation and taking appropriate action on alleged violations of this chapter in all proceedings commenced within six years of an alleged violation of this chapter by a legislator or employee[.]”). As such, the Committee may wish to remove proposed subsection (c) altogether.

Thank you for your continuing support of the Commission’s work and for considering the Commission’s testimony on H.B. 361.

Very truly yours,

Daniel Gluck  
Executive Director and General Counsel

Statement Before The  
**SENATE COMMITTEE ON JUDICIARY**  
Tuesday, January 28, 2020  
10:15 AM  
State Capitol, Conference Room 016

in consideration of  
**HB 361, HD1, SD1**  
**RELATING TO EMOLUMENTS.**

Chair RHOADS, Vice Chair KEOHOKALOLE, and Members of the Senate Judiciary Committee

Common Cause Hawaii supports HB 361, HD1, SD1, which would prohibit the Governor or any county mayor, while holding those offices, to maintain any other employment or receive any emolument, beginning on the sixty-first calendar day after their election or appointment to office.

State officials in the highest positions should be fully attentive to the demanding responsibilities of their offices. They should not be distracted by other professional duties or be choosing which job's priorities come first.

Any significant gift or monetary compensation from interests outside of their state position is entirely inappropriate and could cloud their judgment or lead them to consider their personal interests above those of their electorate.

While Common Cause Hawaii appreciates that SB 361, HD1, SD1 seeks to promote integrity in government by addressing potential conflicts of interests, it can certainly do more by also including all executive branch employees who are employed in a position that required senate confirmation and not just the governor and county mayors. These executives branch employees who are employed in a position that required senate confirmation lead influential state bureaucracies and institutions and wield significant influence over how government operations are conducted. It is essential that the holders of those positions devote their full time, attention, and energy to serving the State and avoid even the appearance of a potential conflict of interest.

Common Cause Hawaii, as a grassroots, nonpartisan, nonprofit organization dedicated to good government reforms, such as ethics and accountability in our government, supports SB 361, HD1, SD1 to improve ethics in Hawaii. We respectfully ask that all executive branch employees who are employed in a position that required senate confirmation also be subject to a ban on emoluments as defined in SB 361, HD1, SD1.

Thank you for the opportunity to testify in support of SB 361, HD1, SD1 with suggested amendments. If you have further questions of me, please contact me at [sma@commoncause.org](mailto:sma@commoncause.org).

Very respectfully yours,

Sandy Ma  
Executive Director, Common Cause Hawaii



Pono Hawai'i Initiative

Josh Frost - President • Patrick Shea - Treasurer • Kristin Hamada  
Nelson Ho • Summer Starr

Tuesday, January 28, 2020

Relating to Emoluments  
Testifying in Support

Aloha Chair and members of the committee,

The Pono Hawai'i Initiative (PHI) **supports HB 361 HD1 SD1 Relating to Emoluments**, which prohibits the governor and each county mayor, while holding those offices, to maintain any other employment or receive any emolument.

Both the Governor and Mayor offices are full-time positions and are compensated as such. The expectation when holding those positions is that those individuals will serve the county/state respectively and will not be distracted by other work obligations or run the risk of having a conflict of interest.

Being able to fully commit to the enormity of the job and devote adequate time to serve the people of Hawai'i is essential and should come first and foremost.

For all these reasons, we urge you to vote in favor of HB361 HD1 SD1.

Mahalo for the opportunity,  
Gary Hooser  
Executive Director  
Pono Hawai'i Initiative

**HB-361-SD-1**

Submitted on: 1/26/2020 1:54:33 PM

Testimony for JDC on 1/28/2020 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gerard Silva	Individual	Oppose	No

Comments:

The Govener needs full Authority so dose the Mayor .The Ethices Board is only for Petty things and should not be given any more Authority. This could turn into a Big political Mess. The people of Hawaii are feid up with what is going on Now.

**LATE**

**HB-361-SD-1**

Submitted on: 1/27/2020 12:18:44 PM

Testimony for JDC on 1/28/2020 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Martha Nakajima	Individual	Support	No

Comments:

Aloha. I am submitting testimony in support of this bill, associating with testimony submitted by Common Cause. Thank you

Martha Nakajima

member of Indivisible Hawaii

**LATE**

**HB-361-SD-1**

Submitted on: 1/27/2020 12:54:59 PM

Testimony for JDC on 1/28/2020 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Barbara Best	Individual	Support	No

Comments:

**LATE**

**HB-361-SD-1**

Submitted on: 1/27/2020 3:15:09 PM

Testimony for JDC on 1/28/2020 10:15:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Edward B Hanel Jr	Individual	Support	No

Comments:

Governors and mayors are fulltime positions. Incumbants should be focused on their official duties and not be distracted with outside interests. This bill would promote integrity of the government. Legislators should also consider expanding the prohibition to cover all senate confirmed executive branch employees.