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TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION & COMMERCE

TWENTY-FOURTH STATE LEGISLATURE  
REGULAR SESSION, 2008

Wednesday, January 30, 2008  
2:00 p.m.

**TESTIMONY ON HOUSE BILL NO. 3046 – RELATING TO THE PROTECTION OF  
CHARITABLE GIVING.**

TO THE HONORABLE ROBERT N. HERKES, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

The Department of Commerce and Consumer Affairs ("Department") appreciates the opportunity to testify in support of House Bill No. 3046, Relating to the Protection of Charitable Giving. My name is Stephen Levins, and I am the Executive Director of the Department's Office of Consumer Protection.

House Bill No. 3046 seeks to amend Chapter 467B of the Hawaii Revised Statutes by requiring registration with the Hawaii Attorney General of most charitable organizations before they can solicit funds.

Testimony on House Bill No. 3046  
January 30, 2008  
Page 2 of 2

The Department is in support of this measure because adoption of a registration requirement will promote consumer protection in two important ways.

First, it will provide information to the public. In most states, those who are solicited can contact their state charities regulator and obtain some basic information about the nonprofit and its fundraiser, such as, who they are, where they are from, how much money they took in, and how much of it made it into the coffers of the nonprofit for which they're soliciting. Adoption of this measure will enable Hawaii consumers to have access to this same type of information.

Second, the filing of registration forms and financial reports will provide a wealth of information to law enforcement. Registration will allow the Attorney General to determine who is behind a solicitation, where it is coming from, who the principals are, what other organizations are involved, and perhaps most importantly, what happens to the money that is raised.

Each year, millions of dollars are contributed to charities by Hawaii consumers. They deserve the right to know where their hard earned money is going. Adoption of this measure will give law enforcement the necessary information to tell them.

Thank you for this opportunity to testify on House Bill No. 3046. I will be happy to answer any questions that the members of the Committee may have.



## TESTIMONY OF THE STATE ATTORNEY GENERAL TWENTY-FOURTH LEGISLATURE, 2008

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**ON THE FOLLOWING MEASURE:**

H.B. NO. 3046, RELATING TO THE PROTECTION OF CHARITABLE GIVING.

**BEFORE THE:**

HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

**DATE:** Wednesday January 30, 2008      **TIME:** 2:00 PM

**LOCATION:** State Capitol Room 325

DELIVER TO VICE CHAIR ANGUS MCKELVEY, RM 315, 5 COPIES

**TESTIFIER(S):** Mark J. Bennett, Attorney General  
or Hugh R. Jones, Deputy Attorney General

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Chair Herkes and Members of the Committee:

The Attorney General strongly supports the passage of this bill, which would re-enact a registration law for charities that solicit funds in Hawaii and will strengthen Hawaii's charitable solicitation law. The bill is based upon the Model Act for the Solicitation of Funds for Charitable Purposes drafted by the National Association of Attorneys General and the National Association of State Charity Officials.

Hawaii has nearly 5,000 tax exempt charitable organizations that administer \$16 billion in charitable assets and employ over 48,000 workers without any systematic oversight program by the State. Hundreds or thousands of mainland based charities also actively and regularly solicit funds from Hawaii residents.

In a series of articles running in the Honolulu Advertiser in September a copy of which is attached to this testimony, Hawaii was described as having the most lax charitable oversight laws in the Nation. The series pointed out that Hawaii is one of only eleven states that do not have a charity registration requirement. Hawaii had a charity registration law from 1969 to 1994, when it was repealed.

The Honolulu Advertiser series quoted the head of one national charity rating service, Charity Navigator, as saying "there is not

another state with less of a commitment to protecting donors." This bill will re-enact a charitable registration requirement that existed in Hawaii from 1969 to 1994 and provide for limited exemptions from the registration requirement. The president of the New York based Council on Accreditation, an expert on charity accreditation, recommended the passage of a charity registration law at the annual meeting of the Hawaii Alliance of Nonprofit Organizations ("HANO") in November.<sup>1</sup>

#### How Does Having a Charity Registration Law Help the Public?

The re-enactment of a registration requirement will protect the public from sham charities. Registration will allow donors to contact the Attorney General and obtain some basic information about the nonprofit and its fundraiser--who they are, where they are, how much money they took in last year, and how much of the funds made it into the coffers of the nonprofit for which they were soliciting. Second, registration forms and financial reports provide a wealth of information to enforcers. It is usually through registration that regulators can find out who are the persons likely making a solicitation, where they are making it from, who the principals are, what other organizations they are involved with, roughly what they do with the money they raise, and whether they are conscientious about registering and supplying the required information. Investigators use all of this information to get to the bottom of a suspicious matter.

#### Summary of this Bill

To minimize burdens on the nonprofit sector, this bill proposes to use a three-page Universal Registration Statement used in thirty-five states. This will facilitate registration by mainland based charities that solicit nationwide. A copy of the form is attached.

The bill proposes limited exemptions from the registration requirement for:

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<sup>1</sup> See "Experts Advice: Register Charities" Honolulu Advertiser November 2, 2007



- Parent teacher associations or educational institutions that are registered or accredited.
- Nonprofit hospitals licensed by the State.
- Persons who solicit solely for exempt organizations.
- Charities that normally receive less than \$25,000 in contributions unless they pay compensation to fundraisers.

This bill proposes to require registered charities to annually file a financial report along with an annual sliding scale fee based on the charity's income that is capped at \$750.00. The bill allows the Attorney General to accept the charity's IRS Form 990 as the annual financial report. However, the bill also proposes to require audited financial statements for nonprofits having over \$500,000 in annual income--a requirement that will affect only about twenty percent of Hawaii nonprofits and a practice recommended by many state nonprofit associations. Most states have lower thresholds for the filing of audited financial statements.

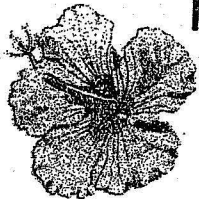
The re-enactment of Hawaii's charity registration law will become more vitally important because the IRS has announced that beginning in 2009, the filing threshold for IRS Form 990 will increase from \$100,000 in income to \$1 million. As a result, the detailed financial and operating data that is contained in Form 990 and is currently available to the public, will not be available for over 93 percent of Hawaii charities. Restoration of Hawaii's charity registration law would help plug this "gap" in financial and operating data concerning charities.

In addition, the bill establishes an annual fee for registered charities that is paid with an annual financial report that will be available to the public and will fund oversight and additional personnel positions that will be required to review registration statements. The bill also will repeal an existing bonding requirement for charitable fundraising counsel that has been found by at least one court to violate the First Amendment. It will also

make other clarifying amendments to Hawaii's charitable solicitation law, including:

- Adds new definitions of "person" and "gross receipts" to the law.
- Amends the financial report requirement by paid solicitors to clarify that solicitors must report contributions received nationally and from Hawaii donors
- Requires commercial co-venturers (business who pay charities a percentage of product sales) file a written consent from the charity with the AG's office that is signed by the charity.
- Adds to the list of "prohibited acts" in the solicitation law, a charity's contracting with an unregistered professional solicitor or fundraising counsel.
- Allows the AG to apply to the circuit court for injunctive relief, or for the appointment of a receiver to ensure due application of charitable funds
- Amends the registration section for solicitors and fundraising counsels to expressly describe what information must be contained in the registration statement to avoid First Amendment problems giving the AG too much discretion over what must be provided.

Accordingly, we respectfully request favorable consideration and passage of this bill.



# The Honolulu Advertiser

September 16, 2007

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990 Return of Organization  
**UNGUARDED GIVING**  
 For the 2006 calendar year, how do Hawaii's charities spend their money?

**TODAY**  
Charities in Isles get scant state scrutiny

**TOMORROW**  
The fate of legislation

**TUESDAY**  
Mining the phone lines of charity call centers

**WEDNESDAY**  
Models for oversight of charities

WHO'S REGULATING HAWAII'S CHARITIES? A HONOLULU ADVERTISER SPECIAL REPORT

**How are your donations used?**  
Ways to find out

Do you know how much of your charitable donation goes to the actual good deeds the charity is supposed to perform? Or how much the top executive of your favorite charity is paid? Or what that charity spends on overhead? Find out through our custom-built searchable database of more than 650 Hawai'i charities, with information gleaned from the charities' tax forms through [www.guidestar.org](http://www.guidestar.org).

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# Hawai'i's rules lax on oversight of charities

**BY ROB PEREZ**  
Advertiser Staff Writer

Hawai'i is one of only 11 states that do not require charities to register, a gap that allows thousands of local nonprofits to raise millions of dollars from the public with virtually no regular oversight from regulators.

The lack of a registration requirement, considered the foundation of an effective monitoring system by many national experts, means charities can collect donations from residents without anyone from the state making even cursory checks to see how that

## THE GOOD NEWS

The majority of Hawai'i charities keep a sharp focus on their mission of helping others | A6

money generally is spent.

"Charities aren't getting much oversight in Hawai'i," said Peter Swords, who has taught nonprofit law at Columbia University in New York for about 30 years. "With nobody looking at you, it means people can abuse the charity system. It's as simple as that."

Although the vast majority of Hawai'i's 5,000 public charities follow the rules and have financial safeguards in place, some organizations invariably stray from their tax-exempt missions — usually without drawing any scrutiny from the state.

Without a registration system that provides for annual reviews, regulators typically intervene only if someone complains or the questionable conduct is flagged some other way.

Take the case of Alphabetland

SEE CHARITIES, A6

## THE ADVERTISER'S VIDEO REPORT



A Better Business Bureau of Hawaii official talks about what to look for in a charity.

[HONOLULUADVERTISER.COM](http://HONOLULUADVERTISER.COM)

CONTINUED FROM A1

Preschool & Kindergarten, a family-run, Waipahu-based charity that has an average monthly enrollment of 300 students and annual revenue of roughly \$2 million, according to its tax returns.

For three consecutive years, starting in 2002, the Waipahu nonprofit paid one of its top executives more than \$250,000 annually, far more than what officials earn at education institutions much larger in size. At KCAA Preschools of Hawai'i, a nonprofit that had double the enrollment and revenue as Alphabetland during that same period, its top executive earned less than \$75,000 a year.

Over roughly that same period, Alphabetland also loaned more than \$100,000 to another officer of the charity — the husband of the top-paid one — while he earned a salary of up to \$120,000. Hawai'i law prohibits nonprofits from loaning money to their officers and directors. The husband served in both roles.

The wife's pay, which raised questions of excessive compensation, and the husband's loan were duly noted on Alphabetland's federal tax returns from 2001 to 2004.

But because Hawai'i has no registration system, which usually includes the filing of a charity's tax return, the Alphabetland transactions went unnoticed by state regulators — until one of them read a national story about questionable loans to nonprofit officials. The story had a brief Hawai'i reference, eventually leading the state attorney general's office to the Waipahu charity.

Authorities found more red flags once they started digging.

They learned, for instance, that the tax-exempt organization had paid its husband-and-wife management team, Gary and Amy Arizala, about \$1 million from 2000 to 2003 (Gary Arizala died in 2004) and that the nonprofit was leasing two luxury cars, a Jaguar and Volvo, for \$1,200 a month.

They also could see from the tax returns that the Arizalas were listed as Alphabetland's only board members during the period the husband was borrowing money and the wife's annual salary peaked at \$264,000. The couple's daughter was added as a third board member in 2004, the returns show.

Such an arrangement runs afoul of standards that watchdog groups such as the Better Business Bureau recommend for governance of charities, including having a board that is independent, free of self-dealing and has at least five members.

Alphabetland declined comment except to say it was in discussions with the AG's office, has not admitted any liability and cautioned against jumping to conclusions about the issues raised by the state.

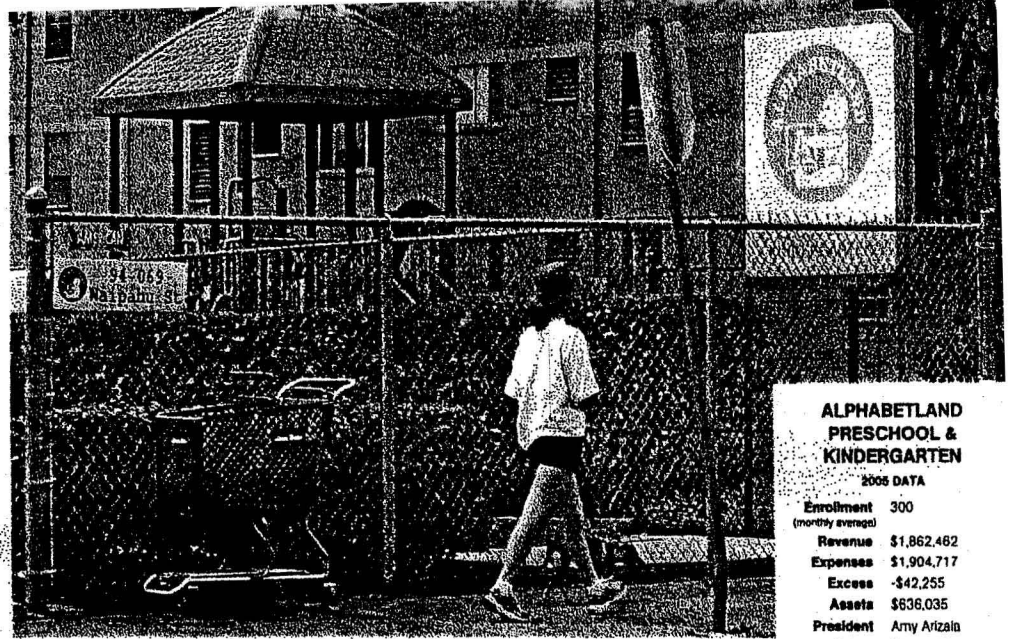
"We are confident that the matter should be resolved in the not-too-distant future to everyone's mutual satisfaction," the charity said in a June statement.

The AG's office declined comment because the case is still pending.

#### CRIMES AND MISDEEDS

The issue of charitable oversight has taken on greater significance in Hawai'i because of some relatively recent high-profile cases of misconduct or alleged misconduct. Among the cases:

- A Salvation Army official on O'ahu was fired last year after he stole more than \$300,000 in money and property that elderly donors had intended to



ANDREW SHIMABUKU | The Honolulu Advertiser

Alphabetland Preschool & Kindergarten, a Waipahu charity, drew investigation from the state because of irregularities such as a \$264,000 salary to one official and a loan to another — a husband and wife who were also its only board members.

#### ALPHABETLAND PRESCHOOL & KINDERGARTEN

2005 DATA

Enrollment (monthly average)	300
Revenue	\$1,862,462
Expenses	\$1,904,717
Excess	-\$42,255
Assets	\$636,035
President	Amy Arizala
Salary	\$109,800

Source: Federal tax return

#### AT THE BOTTOM

In a December 2004 survey of 30 states, Hawai'i ranked last in number of state positions budgeted for charity oversight and enforcement. New York topped the list with 55 positions.

#### THE BOTTOM STATES

Hawai'i	0
Wisconsin	3.35
New Mexico	3
Indiana	2.68
Kentucky	2.3
Colorado	2
Alaska	2
Arkansas	1.5
Delaware*	1
New Hampshire	5

\*Includes part-timers  
Source: Hawai'i attorney general's office, National Association of State Charity Officials

by the organization even though he had a previous conviction in Colorado for bilking an elderly couple. The man pleaded guilty to theft, forgery and other charges last week in connection with the Salvation Army case.

- A soccer league volunteer was sentenced to five years of probation last year for stealing more than \$40,000 from her O'ahu nonprofit group.

- A former politician was accused in 2005 of improperly transferring \$130,000 in campaign funds to a Waipahu charity he headed. The matter was referred to the AG's office for a criminal investigation.

Those cases and other publicized ones delivered some damaging public-relations blows to Hawai'i's industry, raising questions about whether the state and charities themselves have sufficient safeguards in place to protect

exempt status to charities, but it does so few audits — far less than 1 percent of all nonprofits nationally — that oversight has fallen largely to the states. The Internal Revenue Service did not have statistics on audits of Hawai'i nonprofits.

The quality of charity monitoring varies considerably from state to state, with some jurisdictions devoting entire divisions to it. Pennsylvania, for instance, has about 30 people, including attorneys and support staff, in its charitable trusts and organizations section. Oregon has nearly 20.

In Hawai'i, the AG's office, which is responsible for charity oversight, doesn't have even one full-time deputy assigned exclusively to that task.

That dearth of resources was reflected in a December 2004 survey by the National Association of State Charity Officials. Of the 30 states that responded, every one had more budgeted positions — from clerks to attorneys — dedicated to charity oversight and enforcement than Hawai'i, which at the time had none. Today, it has one.

"Oversight (around the country) generally is pretty lax," said Burnie Morris, a Marshall University journalism professor who specializes in nonprofit issues. "But at least some oversight is better than none."

Proponents say registration systems provide states with valuable information on what groups are out there collecting money, what they're collecting it for, how they're spending it in a broad sense and other aspects of a charity's operations. The information can help enforcement officials spot red flags, such as questionable transactions or compensation deals, and answer questions from the public.

Having regulators review annual filings also can serve as deterrents to abuse and is designed to give donors confidence that someone independent of the organization is watching to pro-

system, one of the weakest in the nation, is worrisome.

"I can't think of another state that has less of a commitment to regulating charities and protecting the interests of donors," said Trent Stamp, president of Charity Navigator, a watchdog group based in New Jersey.

"It really sounds like a wild west atmosphere," said Daniel Borochoff, president of the American Institute of Philanthropy in Chicago.

#### IN-HOUSE WATCHDOGS

Industry officials, however, say Hawai'i nonprofits generally have done a good job of protecting donor interests, spending money efficiently and keeping misconduct at bay.

"I'm not aware of any wholesale abuses," said John Flanagan, chief executive of the Hawai'i Alliance of Nonprofit Organizations. "I think Hawai'i nonprofits have a pretty good track record."

The board of directors of each organization provides some outside oversight, many charities hire outside accountants to review their books, and nonprofits that receive funding from

government agencies and private foundations have to file reports accounting for how those dollars are spent, according to charity executives.

"The nonprofit sector here is subject to much greater scrutiny than any (government) agency," said Nanci Kreidman, executive director of the Domestic Violence Clearinghouse.

Adding to that dynamic, the tight-knit nature of the industry in an island community means word quickly

lengths to protect their integrity and the trust of donors, the executives say.

"Reputation is what they live by," said Kelvin Taketa, president of the Hawai'i Community Foundation.

Taketa and other executives agree that the AG's office doesn't get nearly enough funding to provide oversight under the existing system, let alone under any expanded one. They particularly laud Hugh Jones, the deputy AG who provides the bulk of that oversight, including maintaining the office's Web site on charity fundraisers. Jones, however, also has other, non-charity-related duties. The main responsibility of the tax division he heads is to provide representation to the state Department of Taxation.

"Hugh does a terrific job," Taketa said of Jones' nonprofit duties. "But frankly we need four Hughs, not just one."

Guarding against abuse is critical to the industry because charities rely on public support, and donors will be reluctant to give if they don't trust that their money will be used wisely.

The stakes are considerable. Hawai'i residents give hundreds of millions of dollars annually to philanthropic causes. In 2001, the most recent year for which statistics were available, local residents donated about \$430 million in goods and money to Hawai'i and national charities, according to a 2002 study commissioned by the Hawai'i Community Foundation.

The funds that go to local nonprofits help support a sizeable chunk of the state economy. Hawai'i's 5,000 charities control more than \$12 billion in assets. Another 500 private foundations, formed by companies or wealthy families to help fund charitable services, control \$1.2 billion in assets.

All told, these nonprofit organizations generate more than \$2 billion in revenue, employ more than 41,000 non-



Flanagan



Taketa



# Charities

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Given such weighty numbers, even if a tiny fraction of charities stray from their missions and divert assets for non-charitable purposes, the impact can be significant, according to regulators.

## NO REGISTRATION SYSTEM

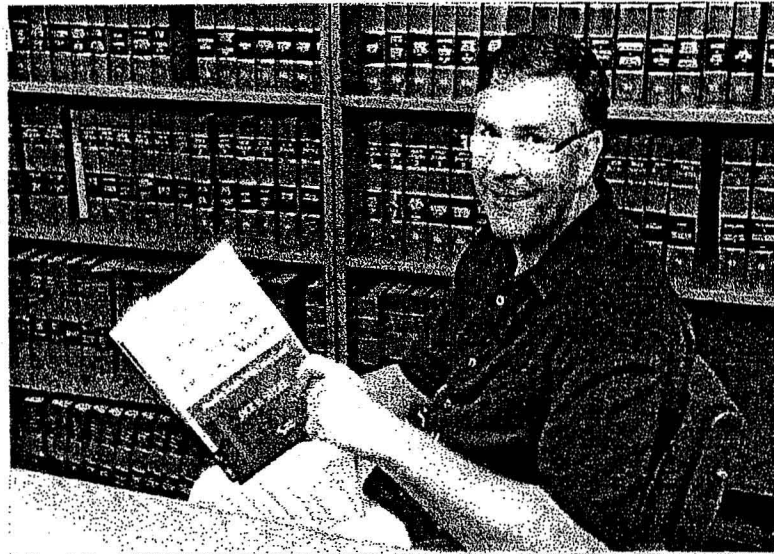
That was among the arguments the AG's office made several years ago when it attempted to get a registration system resurrected in Hawai'i. Registrations were required here until legislators repealed the law in the mid-'90s. But lawmakers were unwilling to support a new statute that the AG's office proposed in 2001 and 2002.

While Hawai'i has a strong law regulating paid solicitors for charities and another statute allowing the state to remove directors for fraud or gross abuse, Jones said a registration system would provide valuable information that would help the public separate the good charities — the vast majority — from the bad and enable the AG's office to better monitor the industry.

One of the big drawbacks of not having an effective system is that consumers have no single place to turn to for comprehensive, timely information about charities seeking donations. Would-be donors, for example, can't check to see if an organization that they're unfamiliar with and that is asking for donations is a legitimate charity registered with the state. They also can't see if the organization has provided the state with information on its finances.

Some watchdog groups, such as the Better Business Bureau ([www.give.org](http://www.give.org)) or Charity Navigator ([www.charitynavigator.org](http://www.charitynavigator.org)), provide online evaluations of certain charities, but the offerings tend to be limited or the participation of charities is voluntary.

A charity's federal tax returns, called 990s, also are available online ([www.guidestar.org](http://www.guidestar.org)), but regulators and others often lament that the re-



BRUCE ASATO | The Honolulu Advertiser

Hugh Jones is the deputy attorney general assigned to keep watch on Hawai'i's charity sector — along with his other duties in the department. He's the only official assigned even part-time to check on charities.

turns can be untimely, inaccurate or incomplete. Nonprofits with income of \$25,000 or less and most faith-based groups are not required to file 990s.

## TAX DEDUCTIONS AT RISK

Without a registration system, local donors who contributed more than \$74,000 in 2006 and early 2007 to the Music Foundation of Hawai'i likely wouldn't have known that the charity was involuntarily dissolved by the state Department of Commerce and Consumer Affairs in 2004 and not re-incorporated until January 2007.

That meant the donors' contributions during that period were not tax-deductible, according to the AG's office.

Under a typical registration system,

a significant change in status — such as an involuntary dissolution — would have to be reported to the state AG's office, and that information likely would have been added to what was publicly available about the charity.

The Hawai'i AG's office came across the music foundation case only because the charity's paid fundraiser, Hawai'i Promotions, was required to register with the state under the charitable solicitations law. All paid solicitors fall under that law.

Hawai'i Promotions' license was suspended in May for 90 days, partly for providing misleading information to foundation donors, according to the AG's office. The company didn't contest the suspension and paid a \$3,000 fine.

In providing receipts to the donors, Hawai'i Promotions included its federal tax identification number and a "Keep this portion for your records" statement, implying that donations were tax-deductible, Jones said in a May letter to the fundraiser.

But even though the foundation had formally incorporated again, its previous tax-exempt status didn't apply to the new organization, meaning donations in 2006 and 2007 were not tax-deductible, Jones said in the letter.

Johnny Kai, the foundation's executive director, denied that the charity or the fundraiser was attempting to mislead anyone.

The foundation was involuntarily dissolved because of a technicality that Kai wasn't even aware of until the AG's

"Hugh does a terrific job. But frankly we need four Hughs, not just one."

KELVIN TAKETA | President, Hawai'i Community Foundation, speaking of deputy attorney general Hugh Jones, who provides oversight of Hawai'i charities

office sent him a notice, according to Kai.

He also said the IRS recently told him the foundation's tax-exempt status still was good — the IRS Web site indicates as much — but the agency recommended that the charity reapply anyway because of the state's contention. Kai has done that.

"It was all innocent," he said. "We weren't trying to fool anybody."

The need to oversee charities is not just limited to the smaller, less obscure ones, analysts say.

High-profile, more mainstream organizations also can slip up, sometimes unknowingly.

That apparently was the case when the Honolulu Academy of Arts, as part of a compensation package to its newly hired president and director in 2003, loaned Stephen Little money to help him with a home purchase.

When the charity's board learned the following year about the AG's position on such lending practices, it immediately addressed the issue: the board and Little decided that he would step down as an officer of the academy but maintain his position as chief administrator.

"This was done to comply with the law and to prevent either a conflict of interest or the perception of a conflict of interest," Little said in an e-mail.

He repaid the loan in full in 2005.

Although the academy mentioned the loan on its tax returns the past several years, the AG's office wasn't aware of it until last week — when The Advertiser called to inquire about it.

Reach Rob Perez at 525-8054 or [rperez@honoluluadvertiser.com](mailto:rperez@honoluluadvertiser.com)

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**Unified Registration Statement (URS) for Charitable Organizations© (v. 3.10)**

**Initial registration**       **Renewal/Update**

This URS covers the reporting year which ended (day/month/year) \_\_\_\_\_

Filer EIN \_\_\_\_\_

State \_\_\_\_\_

State ID \_\_\_\_\_

1. Organization's legal name \_\_\_\_\_

If changed since prior filings, previous name used \_\_\_\_\_

All other name(s) used \_\_\_\_\_

2. (A) Street address \_\_\_\_\_

City \_\_\_\_\_

County \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

(B) Mailing address (if different) \_\_\_\_\_

City \_\_\_\_\_

County \_\_\_\_\_

State \_\_\_\_\_

Zip Code \_\_\_\_\_

3. Telephone number(s) \_\_\_\_\_ Fax number(s) \_\_\_\_\_

E-mail \_\_\_\_\_

Web site \_\_\_\_\_

4. Names, addresses (street & P.O.), telephone numbers of other offices/chapters/branches/affiliates (*attach list*).

5. Date incorporated \_\_\_\_\_ State of incorporation \_\_\_\_\_

Fiscal year end: day/month \_\_\_\_\_

6. If not incorporated, type of organization, state, and date established \_\_\_\_\_

7. Has organization or any of its officers, directors, employees or fund raisers:

A. Been enjoined or otherwise prohibited by a government agency/court from soliciting? Yes  No

B. Had its registration denied or revoked? Yes  No

C. Been the subject of a proceeding regarding any solicitation or registration? Yes  No

D. Entered into a voluntary agreement of compliance with any government agency or in a case before a court or administrative agency? Yes  No

E. Applied for registration or exemption from registration (but not yet completed or obtained)? Yes  No

F. Registered with or obtained exemption from any state or agency? Yes  No

G. Solicited funds in any state? Yes  No

If "yes" to 7A, B, C, D, E, *attach explanation*.

If "yes" to 7F & G, *attach list* of states where registered, exempted, or where it solicited, including registering agency, dates of registration, registration numbers, any other names under which the organization was/is registered, and the dates and type (mail, telephone, door to door, special events, etc.) of the solicitation conducted.

8. Has the organization applied for or been granted IRS tax exempt status? Yes  No

If yes, date of application \_\_\_\_\_ OR date of determination letter \_\_\_\_\_

If granted, exempt under 501(c) \_\_\_\_\_. Are contributions to the organization tax deductible? Yes  No

9. Has tax exempt status ever been denied, revoked, or modified? Yes  No

10. Indicate all methods of solicitations:

Mail  Telephone  Personal Contact  Radio/TV Appeals   
 Special Events  Newspaper/Magazine Ads  Other(s)  (specify) \_\_\_\_\_

11. List the NTEE code(s) that best describes your organization \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

12. Describe the purposes and programs of the organization and those for which funds are solicited (*attach separate sheet if necessary*).

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

13. List the names, titles, addresses, (street & P.O.), and telephone numbers of officers, directors, trustees, and the principal salaried executives of organization (*attach separate sheet*).

14. (A) (1) Are any of the organization's officers, directors, trustees or employees related by blood, marriage, or adoption to: (i) any other officer, director, trustee or employee OR (ii) any officer, agent, or employee of any fundraising professional firm under contract to the organization OR (iii) any officer, agent, or employee of a supplier or vendor firm providing goods or services to the organization? Yes  No

(2) Does the organization or any of its officers, directors, employees, or anyone holding a financial interest in the organization have a financial interest in a business described in (ii) or (iii) above OR serve as an officer, director, partner or employee of a business described in (ii) or (iii) above? Yes  No   
 (If yes to any part of 14A, *attach sheet* which specifies the relationship and provides the names, businesses, and addresses of the related parties).

(B) Have any of the organization's officers, directors, or principal executives been convicted of a misdemeanor or felony? (*If yes, attach a complete explanation.*) Yes  No

15. *Attach separate sheet listing names and addresses (street & P.O.) for all below:*

Individual(s) responsible for custody of funds.	Individual(s) responsible for distribution of funds.
Individual(s) responsible for fund raising.	Individual(s) responsible for custody of financial records.
Individual(s) authorized to sign checks.	Bank(s) in which registrant's funds are deposited ( <i>include account number and bank phone number</i> ).

16. Name, address (street & P.O.), and telephone number of accountant/auditor.

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_ Telephone \_\_\_\_\_  
 Method of accounting \_\_\_\_\_

17. Name, address (street & P.O.), and telephone number of person authorized to receive service of process. *This is a state-specific item. See instructions.*

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_ Telephone \_\_\_\_\_

18. (A) Does the organization receive financial support from other nonprofit organizations (foundations, public charities, combined campaigns, etc.)? Yes  No
- (B) Does the organization share revenue or governance with any other non-profit organization? Yes  No
- (C) Does any other person or organization own a 10% or greater interest in your organization OR does your organization own a 10% or greater interest in any other organization? Yes  No

(If "yes" to A, B or C, *attach an explanation* including name of person or organization, address, relationship to your organization, and type of organization.)

19. Does the organization use volunteers to solicit directly? Yes  No
- Does the organization use professionals to solicit directly? Yes  No

20. If your organization contracts with or otherwise engages the services of any outside fundraising professional (such as a "professional fundraiser," "paid solicitor," "fund raising counsel," or "commercial co-venturer"), *attach list* including their names, addresses (street & P.O.), telephone numbers, and location of offices used by them to perform work on behalf of your organization. Each entry *must include* a simple statement of services provided, description of compensation arrangement, dates of contract, date of campaign/event, whether the professional solicits on your behalf, and whether the professional at any time has custody or control of donations.

21. Amount paid to PFR/PS/FRC during previous year: \$ \_\_\_\_\_

22.(A) Total contributions: \$ \_\_\_\_\_

(B) Program service expenses: \$ \_\_\_\_\_

(C) Management & general expenses: \$ \_\_\_\_\_

(D) Fundraising expenses: \$ \_\_\_\_\_

(E) Total expenses: \$ \_\_\_\_\_

(F) Fundraising expenses as a percentage of funds raised: \_\_\_\_\_%

(G) Fundraising expenses plus management and general expenses as a percentage of funds raised: \_\_\_\_\_%

(H) Program services as a percentage of total expenses: \_\_\_\_\_%

**Under penalty of perjury, we certify that the above information and the information contained in any attachments or supplement is true, correct, and complete.**

Sworn to before me on (or signed on) \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_  
Notary public (if required)

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Name (printed)

\_\_\_\_\_  
Name (signature)

\_\_\_\_\_  
Name (signature)

\_\_\_\_\_  
Title (printed)

\_\_\_\_\_  
Title (printed)

**Consult the state-by-state appendix to the URS to determine whether supporting documents, supplementary state forms or fees must accompany this form. Before submitting your registration, *make sure you have attached or included everything required by each state to the respective copy of the URS.***

**Attachments may be prepared as one continuous document or as separate pages for each item requiring elaboration. In either case, please number the response to correspond with the URS item number.**



**mckelvey3**

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**From:** Nancy Bottelo [ceo@specialolympicshawaii.org]

**Sent:** Tuesday, January 29, 2008 11:44 AM

**To:** CPCtestimony

**Subject:** testimony - house bill HB3046



P.O. Box 3295 \* Honolulu \* HI \* 96801 Phone: 808-943-8808

House Committee on Consumer Protection and Commerce

Hearing: Jan. 30, 2 p.m., Room 325

Bill number HB3046

Submitted by: Nancy Bottelo, President & CEO, Special Olympics Hawaii

The overall purpose of the registration is to prevent fraud and to ensure that charities are efficiently serving the people of Hawaii. It seems that registration has become a huge burden across the United States as so many charities now spend time and charitable funds on processing and complying with registration instead of focusing on mission and purpose. There is little documented proof that registration across the land is used for any other purpose than to use in media to confuse people on the costs of fundraising and the functions of a charity.

Few reports, if any, can show that this registration process has helped to expose fraud or pinpoint any major problems that exist in a particular charitable establishment.

The ongoing costs of this is a burden and will only go up over the years in an attempt identify fraud. BUT THIS DOES NOT HAPPEN. as the righteous charity leaders that submit accurate information, just do it right. The ones that are trying to conduct fraud would hide or change the facts anyway. The publication of this information again proves to be purposeless.

There seems to be no proof from around the United States that this registration and paper process serves any benefit except taking funds away from the purpose of serving the people - in this case Special Olympic athletes. Many non profits like Special Olympics makes it a standard to conduct an annual audit... this is simply good practice. and always available upon request..

1/29/2008

An alternative recommendation: Is to educate the people of Hawaii to use the services here and on the internet that are readily available. (Guidestar, the BBB); teach them to ask for and request information readily available from the charity.

Nancy Bottelo  
President & CEO  
Special Olympics Hawaii

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**Special Olympics Hawaii**



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Visit our web page at [www.specialolympicshawaii.org](http://www.specialolympicshawaii.org)



January 29, 2008

**TO:** House Committee on Consumer Protection and Commerce  
Representative Robert N. Herkes, Chair  
Representative Angus L.K. McKelvey, Vice-Chair  
And Members of the Committee on Consumer Protection and Commerce

**FROM:** John Flanagan, Hawai'i Alliance of Nonprofit Organizations

**RE:** Testimony on **HB3046**, Relating to the protection of charitable giving

**HEARING:** Jan. 30, 2 p.m., Room 325

**COPIES:** The Committee requests five copies

The Hawai'i Alliance of Nonprofit Organizations is a statewide and sector-wide membership organization that unites and strengthens the nonprofit sector as a collective force to improve the quality of life in Hawai'i. HANO members include more than 280 charitable organizations of all kinds that are tax-exempt under Section 501(c)(3) of the Internal Revenue Service Code. HANO members provide valuable services to communities on every island.

HANO supports the intent of this bill, to protect charitable giving, but with strong reservations.

**Registrations and annual reports:** HANO member nonprofits already provide annual reports to donors, supporters and volunteers and file financial reports to the IRS, to state agencies and county governments, to accrediting agencies, to private foundations, and to other funders, such as United Ways and the Combined Federal Campaign. They also report to the Attorney General on fundraising campaign managed by professional solicitors.

Annual financial reports by nonprofits to the IRS are public records that can be viewed by anyone on the Internet on Guidestar.org. If additional records are needed in a case under investigation involving misuse of donor funds or criminal wrongdoing, we agree

the AG's office should have subpoena powers to acquire them and injunctive powers to halt abuses short of dissolving the organization.

Members question, however, whether a pre-emptive registration and reporting requirement and the bureaucracy required to gather, track, analyze and investigate more than 5,000 annual submissions is necessary or practical.

**Administrative and financial burdens:** It is in the public interest to minimize administrative burdens on charities as much as possible. Nonprofits recognize that administrative overhead is a major concern of donors and tax payers who want to see their money go to direct services. This bill would increase administrative overhead, requiring more paperwork and payment of auditing and registration fees.

HANO members question imposing fees on nonprofits that receive donations. Some tell us the proposed fees amount to an inappropriate tax on donors to generate revenues to pay for four additional state employees to act as watchdogs rather than to provide services to the community.

**Audit requirement threshold:** The threshold for required annual audits in the bill is \$500,000 in annual revenue. Audits for nonprofits with annual revenues of \$500,000 now typically cost from \$7,500 to as much as \$20,000. Audits are becoming increasingly expensive as auditing standards are becoming more rigorous. While members agree that auditing financial statements is a recommended best practice, they suggest the audit requirement threshold be raised to at least \$1 million.

**Is there a problem? Will registration and reporting solve it?:** Members tell us that the case has not been made for this bill. It cites no evidence of a problem. Nor does it demonstrate a cause-and-effect relationship between that problem, the remedies proposed and solution. HANO is willing to help solve problems involving the nonprofit sector once they are identified.

The bill identifies no indicators that will be tracked to demonstrate improvement in the status quo. Members say, unless a pervasive problem requiring further protection of charitable giving is documented that the bill remedies, it is unnecessary. They are unconvinced that because other states register and require annual reports is sufficient reason for Hawai'i to do so.

**Should donations pay for oversight?:** Charities agree law enforcement agencies should have the tools needed to find and deal with abuses, but disagree that the burden should be borne by the donors who support charitable organizations. Contributors want their contributions to go to programs that make Hawai'i a better place. They question whether registration fees scaled to the charities revenues, and thus to their ability to pay, are an appropriate mechanism to generate revenue for oversight.

## Technical issues

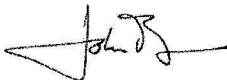
Members cite several technical issues with the bill. Among these are the following:

**Reporting deadlines:** The annual reporting deadline in the bill is four months after the end of the nonprofit's fiscal year with a three month extension for good reason. The extension should be increased to six months to match the IRS filing deadlines and providing time to complete an audit should be an acceptable reason for an extension. Nonprofits typically file their annual Form 990s to the IRS in October for the previous tax year. This allows for audit and tax return preparations during the summer after the April tax filing deadline and avoids competing with other tax work due in April and driving up the cost.

**Privacy and public information:** HANO Members are concerned by the amount of detail required to complete the Uniform Registration Statement that has been proposed for charities to register. The forms contain bank account information and personal contact information, for example, that should not be public record.

Thank you for the opportunity to express the views of HANO members concerning **HB 3046**.

Sincerely,

A handwritten signature in black ink, appearing to read "John Flanagan", written over a horizontal line.

John Flanagan  
President & CEO