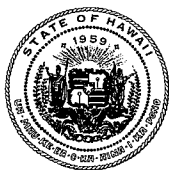


SB 2224

CPN/WTL



HAWAII STATE ETHICS COMMISSION

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

February 10, 2010

The Honorable Rosalyn H. Baker, Chair
The Honorable David Y. Ige, Vice Chair
Senate Committee on Commerce and Consumer Protection
Hawaii State Capitol, Room 231
415 South Beretania Street
Honolulu, Hawaii 96813

The Honorable Clayton Hee, Chair
The Honorable Jill N. Tokuda, Vice Chair
Senate Committee on Water, Land, Agriculture, and Hawaiian Affairs
Hawaii State Capitol, Room 228
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **Testimony on S.B. No. 2224, Relating to Financial Disclosure**

Hearing: Wednesday, February 10, 2010, 11:00 a.m.
State Capitol, Conference Room 229

Written Testimony From: Hawaii State Ethics Commission

The Honorable Rosalyn H. Baker, Chair; The Honorable David Y. Ige, Vice Chair;
and Honorable Members of the Senate Committee on Commerce and Consumer
Protection:

The Honorable Clayton Hee, Chair; The Honorable Jill N. Tokuda, Vice Chair;
and Honorable Members of the Senate Committee on Water, Land, Agriculture,
and Hawaiian Affairs:

Thank you for this opportunity to submit written testimony on S.B. No. 2224,
Relating to Financial Disclosure. We regret that we cannot appear in person at this
hearing. We have a Commission meeting scheduled at this time. The purpose of this
testimony is to provide information on the State Ethics Code's financial disclosure law
and to provide the Committees with background information.

The purpose of this bill is to amend Hawaii Revised Statutes (HRS) section 84-17, the Financial Disclosure section of the Hawaii State Ethics Code, to require the annual filing of public financial disclosure statements from the executive director of the division of consumer advocacy of the Department of Commerce and Consumer Affairs; the commissioners of the Public Utilities Commission; and the members of the Board of Land and Natural Resources. Currently, these individuals file confidential financial disclosure statements with the Hawaii State Ethics Commission.

HRS section 84-17, the Financial Disclosure section of the State Ethics Code, requires certain State officials and employees to annually file financial disclosure statements with the Hawaii State Ethics Commission. Most individuals who are required to file financial disclosure statements file confidential statements with the Commission. These confidential statements are not available for public inspection. They are reviewed only by the Hawaii State Ethics Commission.

Certain State officials and employees are required to file public financial disclosure statements with the Hawaii State Ethics Commission. HRS section 84-17(d) lists those individuals who must file public disclosure statements. This section reads:

§ 84-17 Requirements of disclosure. (d) The financial disclosure statements of the following persons shall be public records and available for inspection and duplication:

- (1) The governor, the lieutenant governor, the members of the legislature, candidates for and delegates to the constitutional convention, the members of the board of education, the trustees of the office of Hawaiian affairs, and candidates for state elective offices;
- (2) The directors of the state departments and their deputies, regardless of the titles by which the foregoing persons are designated; provided that with respect to the department of the attorney general, the foregoing shall apply only to the attorney general and the first deputy attorney general;
- (3) The administrative director of the State;
- (4) The president, vice presidents, the assistant vice presidents, the chancellors, and the provosts of the University of Hawaii;
- (5) The superintendent, the deputy superintendent, the state librarian, and the deputy state librarian of the department of education;
- (6) The administrative director and the deputy director of the courts; and

- (7) The administrator and assistant administrator of the office of Hawaiian affairs.

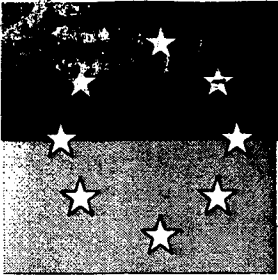
As can be seen, those who file public financial disclosure statements are generally those individuals who hold high-ranking positions in state government or who take significant policy or decision-making action.

In 1999, the Legislature passed House Bill 1431. This bill amended the Financial Disclosure law to require public financial disclosure statements from the members of the Board of Regents, the members of the Board of Land and Natural Resources, the members of the Board of Agriculture, and the members of the Hawaiian Homes Commission. Governor Cayetano vetoed the bill. A copy of Governor Cayetano's News Release indicating the veto is attached to our testimony.

In 2007, the Legislature passed House Bill 910. This bill amended the Financial Disclosure law to require public financial disclosure statements from the members of the Board of Regents, the members of the Board of Land and Natural Resources, the members of the Board of Agriculture, and the members of the Hawaiian Homes Commission. Governor Lingle vetoed this bill. A copy of Governor Lingle's Statement of Objections to the bill is attached to this testimony.

The Hawaii State Ethics Commission has no specific knowledge regarding the reasons for the introduction of this bill. The Hawaii State Ethics Commission has not yet had an opportunity to determine its position on this bill. For this reason, the Commission is submitting testimony for informational purposes at this time.

We appreciate the opportunity to submit written testimony on S.B. No. 2224, Relating to Financial Disclosure. We would like to thank this Committee for its consideration of our written testimony.



BENJAMIN J. CAYETANO

Governor

STATE OF HAWAII

Contact: Kathleen Racuya-Markrich, Press Secretary (808) 586-0034

Monday, May 3, 1999

News Release 99-038

Governor vetoes bill to make public the financial disclosure statements of selected boards and commissions

On April 27, 1999, Governor Ben Cayetano vetoed House Bill ¹⁴³¹~~1481~~ to make public the confidential financial disclosure statements filed with the Ethics Commission by appointees to the University of Hawaii Board of Regents, the Board of Land and Natural Resources, the Board of Agriculture and the Hawaiian Homes Commission.

“Expanding the disclosure requirement of private financial interests appears to be unnecessarily burdensome, especially when there has been no problem with the existing requirements. This would have a chilling effect on my ability to convince the most appropriate and qualified individuals to serve on these boards,” said Governor Cayetano.

“Service on mostly all boards and commissions is voluntary and uncompensated,” said the Governor. “And, every appointee to a board or commission is required to file each year a financial disclosure form with the State Ethics Commission.

“If public financial disclosures are considered to be necessary, notwithstanding the seemingly unnecessary burden and the probable chilling effect, there appears to be no rational basis for requiring the members of only these four boards out of the 160 state boards and commission to file public financial disclosures. The members of other executive and regulatory boards and commissions should likewise be required to file public financial disclosures.”

Governor Cayetano also vetoed House Bill 1413, to require the Department of Human Services to use actuarially valid risk factor adjustments derived from actual QUEST member experience to modify payments to the various QUEST plans. A copy of the Governor’s statement of objections is attached to this release.

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EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

May 1, 2007

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith HB910 HD1 SD1, without my approval, and with the statement of objections relating to the measure.

HB910 HD1 SD1

A BILL FOR AN ACT RELATING TO PUBLIC
FINANCIAL DISCLOSURE STATEMENTS.

Sincerely,



LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

May 1, 2007

STATEMENT OF OBJECTIONS TO HOUSE BILL NO. 910

Honorable Members
Twenty-Fourth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, House Bill No. 910, entitled "A Bill for an Act Relating to Public Financial Disclosure Statements."

The purpose of this bill is to make the financial disclosure statements of the members of ten boards and commissions a matter of public record and available for inspection and duplication.

This bill is objectionable because it will adversely impact the ability of the State to attract knowledgeable and qualified volunteers to serve on boards and commissions.

Members of boards and commissions already file annual financial disclosure statements with the Ethics Commission. This allows members of the Ethics Commission to determine if conflicts of interest exist. These forms are not made public thus affording a careful balancing of the interests of the public and the privacy of the volunteers who serve. Subjecting a board member's personal financial, proprietary, and commercial information to public disclosure and duplication could adversely affect the ability of these individuals to conduct their business and maintain the confidentiality of their personal assets.

Second, this bill fails to recognize the safeguards already in place to ensure ethical behavior by board and

Commission members. Board and commission decisions are already subject to the Sunshine law requiring open meetings and public recording of the proceedings. Members of the public who are concerned that a conflict may exist have a reasonable opportunity to raise that concern. Furthermore, members of the public can request the Ethics Commission to investigate a commissioner or board member if they believe a conflict may be present.

Many board and commission members are subject to confirmation by the State Senate. The Senate has the opportunity and an obligation through this process to ensure that the members they are confirming will live up to the highest ethical standards of the State. Additionally, some boards, such as the Board of Land and Natural Resources, are already subject to statutorily mandated disclosure rules that require a member to disqualify themselves from voting or participation in a discussion where they have a direct or indirect interest. This bill fails to recognize these existing safeguards.

Third, this bill singles out ten specific boards and commissions but fails to address why these boards should be subject to public disclosure while numerous other boards and commissions that serve the State will not be subject to the same requirements. Furthermore, this bill attempts to improperly equate members of boards and commissions who serve without compensation as if they were the same as paid State employees or elected officials. If this proposed bill applied only to the Public Utilities Commissioners, it would be an acceptable measure since these commissioners are full-time paid members during their tenure.

Finally, the bill is objectionable because it would change the requirements of financial disclosure in mid-stream. Because this bill would take effect upon approval it would subject existing board and commission members to new rules that were not

in place at the time they agreed to serve and were appointed to their positions. Changing the rules is both unfair and inappropriate to those who are giving of their time and talents to improve the operations of State government. If the measure applied prospectively, then it would be less onerous than as currently written.

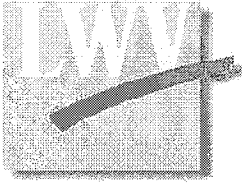
My Administration has consistently supported open and timely disclosure of potential conflicts by members of all State boards and commissions. However, this disclosure should be handled in a manner that is appropriate to the specific board, such as the current statutory requirements applicable to the Board of Land and Natural Resources. This bill fails to meet that standard.

For the foregoing reasons, I am returning House Bill No. 910 without my approval.

Respectfully,

A handwritten signature in black ink, appearing to read "Linda Lingle", written in a cursive style.

LINDA LINGLE
Governor of Hawaii



THE LEAGUE OF WOMEN VOTERS OF HAWAII

TESTIMONY ON SB 2224 RELATING TO FINANCIAL DISCLOSURE

Committee on Commerce and Consumer Protection, and Committee on Water, Land,
Agriculture, and Hawaiian Affairs
Wednesday, February 10, 2010
11:00 a.m.
Conference Room 229

Testifier: JoAnn Maruoka

Chair Baker and Chair Hee, Vice Chair Ige and Vice Chair Tokuda, and members,

The League of Women Voters of Hawaii supports SB 2224 to help provide a more complete, uncensored view of government decision-making. The bill requires that the financial disclosure statements of the executive director of the division of consumer advocacy of the department of commerce and consumer affairs; the commissioners of the public utilities commission; and the members of the board of land and natural resources be deemed public records and available for inspection and duplication. This brings these positions in parity with other key state personnel.

We agree with the need for fully disclosed relevant information about those who will make important financial decisions on public funds for major projects. This should make transparent to the public any potential conflicts of interest. Such increased transparency provides the accountability that citizens demand and absolutely deserve, and that helps build public confidence. It also promotes government efficiency and effectiveness. Further, it is to the benefit of legislators in that it helps to demonstrate understanding of and actual support for openness and transparency in the best interest of the public.

SB 2224 is sound legislation, and we urge you to pass it. Thank you for this opportunity to testify.



HAWAII

AMERICANS FOR DEMOCRATIC ACTION

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Brien Hallet, President 61792	Juliet Begley	Nancy Bey Little	Barbara Polk	PO. Box
Karin Gill, Vice-President Honolulu,	John Bickel Fritz Fritschel, Treasurer Hawaii'i 96822	Jan Lubin	George Simson Stephen O'Harrow	
Marsha Schweitzer(Alt.) Tom Horton, Secretary	Chuck Huxel	Jim Olson	Bart Dame (Alt)	

February 8, 2010

TO: Chairs Rosalyn Baker and Clayton Hee
 Vice Chairs David Ige and Jill Tokuda
 Members of the Senate Committees on Commerce and Consumer Protection
 and Water, Land, Agriculture and Hawaiian Affairs

FROM: Barbara Polk, Legislative Committee Chair
 Americans for Democratic Action/Hawaii

SUBJECT: Support for SB 2224 Relating to Financial Disclosure

In light of its commitment to transparency and integrity in governmental processes, Americans for Democratic Action/Hawaii strongly supports SB 2224. We believe that the decisions that will be made by the members of the Public Utilities Commission and the Board of Land and Natural Resources, as well as by the Executive Director of the Division of consumer Advocacy of DCCA, are so major and so important to the future well-being of the state, that the general public's interest in knowing whether potential conflicts of interest are present overrides personal considerations about revealing financial information.

We urge you to pass SB 224.



LIFE OF THE LAND

76 North King Street, Suite 203

Honolulu, Hawai'i 96817

Phone: 533-3454; E: henry.lifeoftheland@gmail.com

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

Senator Rosalyn H. Baker, Chair

Senator David Y. Ige, Vice Chair

COMMITTEE ON WATER, LAND, AGRICULTURE, AND HAWAIIAN AFFAIRS

Senator Clayton Hee, Chair

Senator Jill N. Tokuda, Vice Chair

DATE: Wednesday, February 10, 2010

TIME: 11:00 a.m.

PLACE: Conference Room 229

RE: SB 2224 RELATING TO FINANCIAL DISCLOSURE

SUPPORT

Aloha Chairs Baker and Hee and Members of the Committees

Life of the Land is Hawai'i's own energy, environmental and community action group advocating for the people and `aina for four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

SB 2224 requires that the financial disclosure statements of the executive director of the division of consumer advocacy of the department of commerce and consumer affairs; the commissioners of the public utilities commission; and the members of the board of land and natural resources be deemed public records and available for inspection and duplication.

This bill should not be construed to suggest that anything is amiss. As general policy of the State, the most effective way of eliminating potential conflict of interest and misuse of the system is through sunshine (public disclosure). This mechanism also allows the Legislature to effectively monitor the Executive Branch of Government.

Finally, it allows all types of entities doing business before state agencies to understand the people that will judge the projects that are in need of regulatory approval.

This information is already collected. The bill would merely make it public.

Mahalo,

Henry Curtis
Executive Director