



HAWAII  
STATE  
ETHICS  
COMMISSION

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

February 4, 2011

The Honorable Gilbert S.C. Keith-Agaran, Chair  
The Honorable Karl Rhoads, Vice Chair  
House Committee on Judiciary  
Hawaii State Capitol, Room 302  
415 South Beretania Street  
Honolulu, Hawaii 96813

## LATE TESTIMONY

Re: **Testimony on H.B. No. 862, Relating to the Ethics Commission**

Hearing: Friday, February 4, 2011, 2:00 p.m.  
State Capitol, Conference Room 325

Written Testimony From: Hawaii State Ethics Commission

The Honorable Gilbert S.C. Keith-Agaran, Chair; The Honorable Karl Rhoads, Vice Chair; and Honorable Members of the House Committee on Judiciary:

Thank you for this opportunity to testify on H.B. No. 862, Relating to the Ethics Commission. While the Hawaii State Ethics Commission understands the need for proper records retention, the Commission, however, cannot support this bill as written.

The purpose of this bill is to require the State Ethics Commission to retain, in electronic form, financial disclosure statements and gifts disclosure statements for an additional ten-year period past the initial six-year retention period currently required for these records. In addition, this bill requires that lobbying reports also be preserved in electronic form for an additional ten-year period past their initial four-year retention period.

The Commission has several concerns with this bill. This bill imposes a 16-year retention requirement on financial disclosure filings and gifts disclosure filings and a 14-year retention requirement on lobbying reports. The Commission is unsure as to the purpose of requiring such long retention periods for these filings. The Commission notes that the statute of limitations for violations of the financial and gift disclosure laws is six years. The statute of limitations for violations of the lobbying reporting laws is three years.

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In addition, this bill would require the Commission to create electronic versions of every financial disclosure statement, gifts disclosure statement, and lobbying report filed with our office. Currently, the Commission only creates electronic copies of gifts disclosure statements, lobbying reports, and certain financial disclosure statements that, by statute, are public. The Commission does not create electronic copies of those financial disclosure statements that are not public documents. Each year, over 1500 state officials and employees, and state board and commission members file confidential financial disclosure statements with the Commission. Absent additional positions and funding for those positions, the Commission simply does not have sufficient staff and equipment to create electronic copies of all of the confidential disclosures that it currently receives each year. In addition, if the Commission must convert the disclosures and reports that it currently maintains in hard copy to electronic form, then the staffing concerns are much greater.

The Commission is also concerned that the bill makes explicit reference to paper filings of disclosures and lobbying reports. As written, it appears that this language requires the Commission to accept filings in paper form. Such a requirement would prevent the Commission from moving towards an electronic filing system in the future.

Finally, the Commission believes that the requirement for administrative rules implementing the record retention and archiving procedures is unnecessary, especially when the benefits of implementing rules for such procedures is weighed against the Commission's limited resources and the costs to promulgate those rules. The Commission presently retains the financial disclosure statements and other filings for the statutorily required periods and, should those periods be amended, the Commission will ensure that its records are maintained as required by law.

For the reasons set forth above, the Hawaii State Ethics Commission cannot support this bill as written. We appreciate the opportunity to testify on H.B. No. 862, Relating to the Ethics Commission. We would like to thank this Committee for its consideration of our testimony.