

STAND. COM. REP. NO.

621

Honolulu, Hawaii

MAR 04 2011

RE: S.B. No. 671
S.D. 1

Honorable Shan S. Tsutsui
President of the Senate
Twenty-Sixth State Legislature
Regular Session of 2011
State of Hawaii

Sir:

Your Committee on Judiciary and Labor, to which was referred S.B. No. 671 entitled:

"A BILL FOR AN ACT RELATING TO ETHICS,"

begs leave to report as follows:

The purpose and intent of this measure is to strengthen the democracy of Hawaii by providing for transparency and fairness in the following manner by requiring:

- (1) Lobbyists and public officials to report their financial and contractual relationships and transaction amounts;
- (2) Lobbyists to disclose certain events attended by legislators;
- (3) Lobbyists and their clients to disclose all campaign donations made during the legislative session;
- (4) Lobbyists to file disclosure reports at the end of each of the months that the Legislature is in session; and
- (5) Legislators to file financial disclosure reports by January 31 after the beginning of each regular legislative session.

A proposed S.D. 1 version of S.B. No. 671 was circulated by your Committee prior to this hearing. That proposed measure amended section 84-11, Hawaii Revised Statutes (Gift Law), by



establishing specific prohibitions and exceptions on gifts to legislators or employees as follows:

- (1) Exempting from the prohibition on the receipt of gifts under the Gift Law the acceptance by a legislator or employee of a gift that does not exceed \$200 in value from an entity, so long as the value of the gifts received from that entity does not exceed an unspecified aggregate amount in any calendar year;
- (2) Prohibiting the acceptance of a gift by a legislator or employee in excess of \$200 under certain circumstances;
- (3) Exempting entirely from the prohibition on the receipt of gifts under the Gift Law the acceptance of specified items, including:
 - (A) Gifts of food or beverages;
 - (B) Ceremonial gifts, awards, or other gifts that are for informational, educational, or appreciative value;
 - (C) Reasonable expenses for food, travel, lodging, or scheduled entertainment of a legislator or employee in return for participation on a panel or a speaking engagement, under certain circumstances; and
 - (D) Tickets for free admission from a person sponsoring or conducting an event to attend a charitable, cultural, political or community event, under certain circumstances; and
- (4) Prohibiting, unless otherwise authorized, a legislator or employee from accepting any honoraria or compensation related to the legislator's or employee's official duties if the payer of the honoraria has an interest that may be affected substantially or materially by the performance or nonperformance of the legislator's or employee's official duties.

Your Committee received testimony in support of the proposed S.D. 1 from the Hawai'i Alliance of Nonprofit Organizations; Goodwill Industries of Hawaii, Inc.; and the Hawaii Substance



Abuse Coalition. Your Committee received testimony in opposition to the proposed S.D. 1 from the Hawaii State Ethics Commission; The League of Women Voters of Hawaii; Common Cause Hawaii; the Americans for Democratic Action Hawai'i; the Media Council of Hawai'i; and five individuals. Your Committee received comments on the proposed S.D. 1 from the American Cancer Society; Lanakila Pacific; and one individual.

Your Committee finds that the intent of the proposed S.D. 1 is to provide clear and specific guidelines on gifts that will enable the donor and the recipient to properly conform to the law.

Despite the laudatory attempt, the standards in the proposed S.D. 1 relied primarily on set values of the gift instead of the conduct of the donor and recipient of the gift in the performance of their official duties. Your Committee however believes that some clarity in the Gift Law is needed and that a step by step approach may be appropriate.

Your Committee finds that nonprofit organizations fulfill important public functions, such as direct services to low-income and disadvantaged persons, the promotion of culture and the arts, and good stewardship and protection of our lands, energy, education, animal rights, and other public benefits. Often times these organizations organize events to educate the community. These events provide lawmakers and government officials with educational opportunities to keep them current with community issues. Accordingly, your Committee believes that attendance by public employees and legislators at charitable events deserves a specific exemption from the Gift Law.

The exemption would apply to charitable entities that have received recognition of tax exempt status under section 501(c)(3) through (c)(6) or as a public charity under section 509(a)(1) through (a)(4) of the Internal Revenue Code.

Your Committee has amended this measure by deleting its contents and replacing them with language that:

- (1) Amends section 84-11, Hawaii Revised Statutes, regarding acceptance of gifts by legislators and employees, to exempt the receipt of an invitation or ticket for a charitable event from a charitable entity, whether or not the charitable entity is the host of the charitable event; and



- (2) Inserts an effective date of July 1, 2050, to allow for further discussion.

As affirmed by the record of votes of the members of your Committee on Judiciary and Labor that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 671, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 671, S.D. 1, and be placed on the calendar for Third Reading.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary and
Labor,




CLAYTON HEE, Chair



The Senate
 Twenty-Sixth Legislature
 State of Hawai'i

Record of Votes
Committee on Judiciary and Labor
JDL

Bill / Resolution No.:*	Committee Referral:	Date:		
SB671	JDL	3-1-11		
<input type="checkbox"/> The committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is:				
<input type="checkbox"/> Pass, unamended 2312	<input checked="" type="checkbox"/> Pass, with amendments 2311	<input type="checkbox"/> Hold 2310		
<input type="checkbox"/> Recommit 2313				
Members	Aye	Aye (WR)	Nay	Excused
HEE, Clayton (C)	✓			
SHIMABUKURO, Maile (VC)				✓
GABBARD, Mike		✓		
IHARA, Jr., Les		✓		
SLOM, Sam				✓
TOTAL	1	2	0	2
Recommendation:				
<input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted				
Chair's or Designee's Signature:				
				
Distribution:				
Original File with Committee Report	Yellow Clerk's Office	Pink Drafting Agency	Goldenrod Committee File Copy	

*Only one measure per Record of Votes