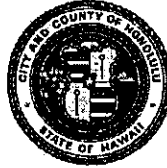


ETHICS COMMISSION
CITY AND COUNTY OF HONOLULU

715 SOUTH KING STREET, SUITE 211, HONOLULU, HAWAII 96813-3091
Phone: (808) 768-7786 • Fax: (808) 768-7768 • EMAIL: ethics@honolulu.gov
Internet: www.honolulu.gov/ethics

PETER B. CARLISLE
MAYOR



CHARLES W. TOTTO
EXECUTIVE DIRECTOR & LEGAL COUNSEL

January 31, 2011

The Honorable Gilbert S.C. Keith-Agaran
Chair
Committee on Judiciary
House of Representatives
State of Hawaii
Hawaii State Capitol, Room 302
Honolulu, HI 96813

Re: **Testimony of the Honolulu Ethics Commission;**
HB 468, Relating to County Ethics Commissions, Hearing on Tuesday,
February 1, 2011 at 2:00 p.m. before the Committee on Judiciary, Room 325

Dear Chair Keith-Agaran:

My name is Charles W. Totto and I am the Executive Director and Legal Counsel of the Honolulu Ethics Commission ("Commission"). The Commission does not take a position opposing or supporting this bill, but would like to bring issues to the Committee's attention for its consideration.

No one can argue against having highly independent and impartial citizens sit on the state and county ethics agencies. The question is what processes are likely to ensure these qualities in agency members. The revised Charter of Honolulu provides that all board and commission members, including those for the Commission, be appointed by the mayor and confirmed by the Council. This provides for the traditional checks and balances in the advise and consent process.

The bill would require the counties to adopt an approach similar to the state's, by which an independent body would develop a list of nominees for the ethics agency. It is not clear from the bill whether the list would be provided to the mayor for his/her appointment or some other mechanism would be used. It is also not clear what safeguards would be used to ensure that impartial and independent people are selected by the new process.

The Honorable Gilbert S.C. Keith-Agaran
January 31, 2011
Page 2

The bill contemplates that an independent body would select possible appointees. But, the independent body may not solve the perceived problem regarding the mayor's appointment authority. If the mayor appoints the independent body, under the logic of this bill, there would still be the question as to the new panel's independence. Potential State Ethics Commission members are selected by the Judicial Council. This is an independent agency, whose members are selected by the Chief Justice of the Hawaii Supreme Court. City government does not have a third branch, so some other method of selection of the independent body would be required.

Finally, the Committee should be aware that Article XIV of the Hawaii Constitution leaves to the counties the manner in which each implements its code of ethics. So the bill raises home rule concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "Charles W. Tutto". The signature is fluid and cursive, with a large initial "C" and "W".

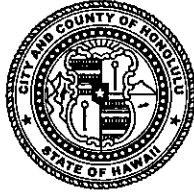
CHARLES W. TOTTO
Executive Director and Legal Counsel

CWT:nmf

**OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU**

530 SOUTH KING STREET, ROOM 300 * HONOLULU, HAWAII 96813
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PETER B. CARLISLE
MAYOR



February 1, 2011

The Honorable Gilbert S.C. Keith-Agaran, Chair
House Committee on Judiciary
Twenty-Sixth Legislature
Regular Session of 2011
State of Hawaii

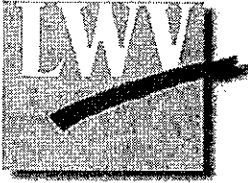
**RE: Testimony of Mayor Peter Carlisle on H.B. 468, Relating to County Ethics
Commissions**

Chair Keith-Agaran and members of the House Committee on Judiciary, Mayor Peter Carlisle submits the following comments on H.B. 468.

The purpose of this bill is to require that each county adopt a charter amendment for the creation of an independent body that shall select the members of the county ethics commission.

I understand that the intent of this bill is to promote independence and impartiality in the selection and appointment of county ethics commissioners which is laudable. However, I am concerned that this bill may actually have a contrary effect since the process proposed by this bill actually eliminates some important checks and balances present in the current system. For instance, under the current system, the nominees must appear before the county council at a public hearing where public testimony is taken on the nominee's qualifications and fitness to serve. Furthermore, it is unclear what body or person will be responsible for the selection of the independent body. Unless the body or person selecting the independent body is independent and impartial, the selection of the ethics commissioners will be seen as flawed and the lack of any further check or balance will be significant.

Thank you for this opportunity to testify before you.



THE LEAGUE
OF WOMEN VOTERS OF HAWAII

TESTIMONY ON HB 468 RELATING TO COUNTY ETHICS COMMISSIONS

Senate Committee on Judiciary
Tuesday, February 1, 2011
2:00 p.m.
Conference Room 325

Testifier: JoAnn Maruoka

Chair Keith-Agaran, Vice Chair Rhoads, members of the Judiciary Committee,

The League of Women Voters of Hawaii strongly supports HB 468, which provides standards for the selection of County Ethics Commissioners to ensure their independence and impartiality. In this time of badly eroded public trust and confidence, we feel it's vital that every effort be made to address ethics requirements correctly and well.

County Ethics Commissions should be independent and nonpartisan. The members must have the will and the courage to fulfill their duties with impartiality and due diligence. The selection process is critical to ensuring their independence and impartiality.

We agree that the selection process for our State Ethics Commission is a sound reference model, and we heartily concur with requiring the counties to establish a selection process that ensures minimal involvement by those who are subject to an ethics commission's oversight.

The requirement that Commissioners be appointed from a list of nominees selected by an independent body and not be subject to confirmation by the county legislative body is a good one. This will help assure the public of consistency in standards that apply to both the state and local governments, and reflect the people's expectations for integrity.

We strongly urge you to pass HB 468. Thank you for the opportunity to testify in its support.



OFFICERS	DIRECTORS			MAILING ADDRESS
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Chuck Huxel, Secretary	Jim Olson	George Simson	Marcia Schweitzer (Alt)	Karin Gill (Alt)

January 29, 2011

TO: Chair Gilbert Keith-Agaran, Vice Chair Karl Rhoads
Members of the House Committee on Judiciary

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

TESTIMONY IN SUPPORT OF HB 468 RELATING TO COUNTY ETHICS COMMISSIONS

Americans for Democratic Action/Hawaii supports HB 468 requiring counties to establish procedures for the selection of county ethics commissioners that do not involve individuals who are subject to review by said commission. It is important for commissioners to be separate from the political process that they oversee for the public to have confidence in their objectivity.

We would point out that the implementation date may need to be modified, since charter amendments could not be drafted and voted on by July 1, 2011, possibly leaving the counties without full commissions for some period of time.

With that amendment, we urge your support for this bill.

Testimony on HB 468, JUD Committee hearing, 2/1/11 2 p.m.

Andy Parx [andyparx@yahoo.com]

Sent: Monday, January 31, 2011 3:00 PM

To: JUDtestimony

Honorable House Judiciary Members,

I would like to voice my whole hearted support for HB 468- Relating To County Ethics Commissions.

We on Kaua`i have experienced a breakdown of ethics over the past decade in large part due to the appointment of ethics board members on a political basis.

News reports have detailed how members often vote on issues in which they themselves have the self same conflicts of interest as those upon whom they are being asked to rule and have refused to find violations of the county's code of ethics based on a plain reading of our charter and code.

Often board members have routinely appeared before bodies like the county council and/or planning commission on behalf of private interests and then turned around and ruled on issues related to members of the council and commission.

We have gone through what many believed was a political witch hunt, one based on a complaint against a police commissioner filed by the chair of the county council which resulted in the removal of a police commissioner and resulted in the departure of our police chief.

People don't bother filing ethics charges any more because they believe that no complaints against elected or appointed officials will be accepted because they are appointed- many believe on the basis of campaign support or cronyism- by those upon whom they are likely to sit in judgment.

I could go on and on. I write a daily op-ed column on-line and have detailed much of this at my web site. You can read my three part report "Unethical Culture- Government service with a personal 'touch.'"

[Read Part 1- Bored of Ethics on the Board of Ethics?](#)

[Read Part 2- The Long and Winding Road to Inertia](#)

[Read Part 3- Deep Thoughts- A "Handy" Diversion](#)

or read my complete coverage of the breakdown of ethics on the Kaua`i Board of Ethics at

<http://parxnewsdaily.blogspot.com/search?q=BOE>

Thank you for your attention to this problem.

Feel free to contact me at gotwindmills(at)gmail(dot)com

Andy Parx Kaua`i
Editor and Publisher
Parx News Net
Parx News Daily- "got windmills?"

Testimony HB 468 2/1/2011 2 PM Jud. Committee

Richard Spacer [rspacer@yahoo.com]

Sent: Monday, January 31, 2011 3:44 PM

To: JUDtestimony

Dear Judiciary Committee:

I SUPPORT this bill. Please pass it.

Thank you.

Richard Spacer
Private citizen
Kauai