

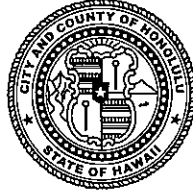
SB 214

RELATING TO COUNTY ETHICS COMMISSIONS.

Provides standards for the selection of county ethics commission members to ensure their impartiality and independence.

OFFICE OF THE MAYOR
CITY AND COUNTY OF HONOLULU

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PETER B. CARLISLE
MAYOR

February 12, 2011

The Honorable Will Espero, Chair
Senate Committee on Public Safety, Government Operations,
and Military Affairs
Twenty-Sixth Legislature
Regular Session of 2011
State of Hawaii

**RE: Testimony of Mayor Peter Carlisle on S.B. 214, Relating to County Ethics
Commissions**

Chair Espero and members of the Senate Committee on Public Safety, Government Operations, and Military Affairs, Mayor Peter Carlisle submits the following comments on S.B. 214.

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.

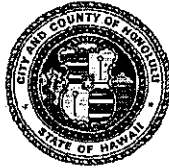
I understand that the intent of this bill is to promote independence and impartiality in the selection and appointment of county ethics commissioners which is laudable. However, I am concerned that this bill may actually have a contrary effect since the process proposed by this bill actually eliminates 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.

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

February 9, 2011

The Honorable Will Espero
Chair
Committee on Public Safety, Government
Operations, and Military Affairs
The Senate
State of Hawaii
Hawaii State Capitol, Room 229
415 South Beretania Street
Honolulu, HI 96813

Re: **Testimony of the Honolulu Ethics Commission;**
SB 214, Relating to County Ethics Commissions, Hearing on Saturday,
February 12, 2011 at 10:00 a.m. before the Committee on Public Safety, Room 229

Dear Chair Espero:

My name is Charles W. Tutto 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

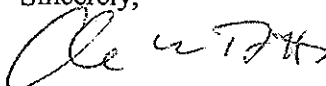
The Honorable Will Espero
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mechanism would be used. It is also not clear what safeguards would be used to ensure that impartial and independent people are selected by the new process.

The 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.

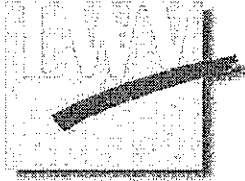
Finally, the Committee should be aware that Article XIV of the Hawaii Constitution leaves to the counties the manner in which each implements its code of ethics. So the bill raises home rule concerns.

Sincerely,



CHARLES W. TOTTO
Executive Director and Legal Counsel

CWT:nmf



THE LEAGUE OF WOMEN VOTERS OF HAWAII

TESTIMONY ON SB 214 RELATING TO COUNTY ETHICS COMMISSIONS

Committee on Public Safety, Government operations, and Military Affairs,
Senator Will Espero, Chair
Senator Michelle Kidani, Vice Chair

Hearing Date: Saturday, February 12, 2011
Time: 9:00 A.M.
Conference Room 229

Testifier: Jean Aoki, LWV Legislative Committee

Chair Espero, Vice Chair Kidani, members of PGM,

The League of Women Voters of Hawaii strongly supports SB 214 and urges its enactment.

The State Constitution of Hawaii mandates that the legislature, each political subdivision and the state constitutional convention adopt a code of ethics which shall apply to all elected and appointed officers and employees of the state and its political subdivisions. It calls for separate ethics commissions for all except the state constitutional convention which would be administered by the State Ethics Commission.

There is nothing vague or unclear in the provision in the State Constitution that "Ethics commissioners shall be selected in a manner which assures their independence and impartiality."

As Section 1 of this bill suggests, ..."in order to effectuate Article XIV of the Hawaii State Constitution, the process for selecting members of county ethics commissions should not involve persons who are subject to regulation by ethics commissions."

SB 214 mandates the counties to amend their charters if necessary to provide for the creation of an independent ethics commission, and gives the counties the freedom to determine the details on how they will meet the demands of our State Constitution.

We strongly urge the adoption of SB 214.

Thank you for this opportunity to testify on this very important bill that mandates that our state and our county governments adhere to the mandates of our state constitution.

From: Nancy Davlantes [ndavlantes@aol.com]
Sent: Wednesday, February 09, 2011 10:34 AM
To: PGM Testimony
Subject: SB214, Saturday, 2/2/11, 9 a.m., Room 229

Testimony in support of this bill: SB214 would provide standards for the selection of county ethics commission members who are currently appointed by the Mayor and confirmed by the Council – the very same individuals over which the commissioners have to enforce ethics laws.

The current situation undermines impartiality and independence, and does not promote public trust in the process.

An independent body is needed to facilitate a more proper selection process.

Nancy Davlantes
47-228 Kamehameha Hwy.
Kaneohe, HI 96744

From: Richard Spacer [rspacer@yahoo.com]
Sent: Friday, February 04, 2011 7:53 PM
To: PGM Testimony
Subject: SB 214: Senate PGM Committee Feb. 12, 2011 9AM

Dear Senate PGM Committee.

I SUPPORT SB 214. Please pass it.

Mahalo,

Richard Spacer
Kauai