



# HAWAII STATE ETHICS COMMISSION

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

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January 30, 2013

The Honorable Angus L. K. McKelvey, Chair  
The Honorable Derek S. K. Kawakami, Vice Chair  
House Committee on Consumer Protection and Commerce  
Hawaii State Capitol, Room 314  
415 South Beretania Street  
Honolulu, Hawaii 96813

Re: **Testimony on HB No. 207, Relating to Public Financial Disclosure Statements**

Hearing: Wednesday, January 30, 2013, 2:00 p.m.  
State Capitol, Conference Room 325

Testimony From: Hawaii State Ethics Commission

The Honorable Angus L. K. McKelvey, Chair; The Honorable Derek S. K. Kawakami, Vice Chair; and Honorable Members of the House Committee on Consumer Protection and Commerce:

Thank you for the opportunity to testify on House Bill No. 207, Relating to Public Financial Disclosure Statements. The Hawaii State Ethics Commission (“Commission”) strongly supports House Bill No. 207.

The purpose of this bill is to require members of the Board of Regents, the Board of Agriculture, the Board of Land and Natural Resources, the Hawaiian Homes Commission, the Hawaii Labor Relations Board, the Labor and Industrial Relations Appeals Board, and the Public Utilities Commission to file financial disclosure statements with the Commission that are available to and accessible by the public. Because these boards are vested with significant authority, the Commission believes that the members of these boards should be required to file public financial disclosure statements under the State Ethics Code, chapter 84, Hawaii Revised Statutes (“HRS”).

The Board of Regents, the Board of Agriculture, the Board of Land and Natural Resources, and the Hawaiian Homes Commission each functions as the “executive board” of a department in the executive branch. Each of these boards serves in a capacity akin to the department director and is responsible for the department’s operation. More specifically, the Board of Regents heads the University of Hawaii; the Board of Agriculture heads the Department of Agriculture; the Board of Land and Natural Resources heads the Department of Land and Natural Resources; and the Hawaiian Homes Commission heads the Department of Hawaiian Home Lands.

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Under the State Ethics Code, a single executive (i.e., department director) who heads a department is required to file a public financial disclosure statement. The members of an executive board function the same as the single executive of a department; however, the members of an executive board currently are not required to file public financial disclosure statements.

With regard to the University of Hawaii, the president, the vice presidents, the assistant vice presidents, the chancellors, and the provosts--all of whom are subordinate to the Board of Regents--are required to file public financial disclosure statements,<sup>1</sup> yet members of the Board of Regents currently are not subject to this requirement.

The Hawaii Labor Relations Board, the Labor and Industrial Relations Appeals Board, and the Public Utilities Commission do not function as executive boards that run departments, but each of these boards is a state agency vested with significant adjudicatory and/or regulatory authority. The members of the Hawaii Labor Relations Board, the Labor and Industrial Relations Appeals Board, and the Public Utilities Commission are full time, paid, state employees. Currently, however, the financial disclosure statements filed by all of the members of these boards are confidential and not available for public review.

The primary purpose of the disclosure law is to provide transparency into certain types of financial interests of legislators, state officials, state employees and state board members to help identify potential conflicts of interests. The Commission receives almost 1,800 financial disclosure statements annual, the vast majority of which are confidential. By law, less than 200 financial disclosure statements are accessible by the public. Unfortunately, because of the Commission's limited resources and, in many cases, lack of understanding as to the employee's official duties, the Commission's ability to review all of the disclosure filings and to determine whether an employee may have a conflict of interest is very limited. For that reason, generally, the public is the best and most effective source to identify possible conflicts of interest.

Given the underlying purpose of the State Ethics Code, i.e., to foster public confidence in state government, the Commission believes that allowing public review of the financial disclosure statements filed by the members of the above identified boards and commissions is consistent with that purpose, and strongly urges the Committee to pass HB No. 207.

Thank you for considering the Commission's testimony.

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<sup>1</sup> HRS section 84-17(d)(4).

TESTIMONY OF HERMINA MORITA  
CHAIR, PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF BUDGET AND FINANCE  
STATE OF HAWAII  
TO THE  
HOUSE COMMITTEE ON CONSUMER PROTECTION & COMMERCE

JANUARY 30, 2013  
2:00 p.m.

**MEASURE:** H.B. No. 207

**TITLE:** Relating to Public Financial Disclosure Statements

Chair McKelvey and Members of the Committee:

**DESCRIPTION:**

This measure proposes to extend to members of state boards and commissions, including members of the Public Utilities Commission ("Commission"), the requirement under Section 84-17(d), Hawaii Revised Statutes, that financial disclosure statements made to the State Ethics Commission also be deemed public records and be made available for "public inspection and duplication."

**POSITION:**

The Commission would like to offer the following comments for the Committee's consideration.

**COMMENTS:**

The Commission supports the principle of open and transparent government, however, requiring some board and commission members to disclose their personal finances publicly may discourage the most qualified candidates from participating in these roles.

Specifically for the Commission, the Commission would like to suggest for the Committee's consideration that Commissioners instead file with their current statutorily required financial disclosure statements an affidavit affirming that he or she does not have a financial interest in any business regulated by the Commission. The suggested alternative may be a more focused and direct method of confirming the lack of potential financial conflicts for a Commissioner.

Thank you for the opportunity to testify on this measure.