

SB 1020

Measure Title: RELATING TO CHARITABLE SOLICITATION.

Report Title: Charitable Solicitation of Funds from the Public

Description: Extends reporting requirements to commercial co-venturers, allows for penalties to be imposed on commercial co-venturers who fail to comply with the reporting requirements, and clarifies the exemption from registration for organizations who receive less than \$25,000 in contributions annually.

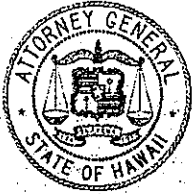
Companion: [HB790](#)

Package: Gov

Current Referral: CPN

Introducer(s): KIM (Introduced by request of another party)

<u>Sort by Date</u>		Status Text
1/24/2013	S	Introduced.
1/24/2013	S	Passed First Reading.
1/24/2013	S	Referred to CPN.
1/31/2013	S	The committee(s) on CPN has scheduled a public hearing on 02-13-13 8:30AM in conference room 229.



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-SEVENTH LEGISLATURE, 2013**

ON THE FOLLOWING MEASURE:

S.B. NO. 1020, RELATING TO CHARITABLE SOLICITATION.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE AND CONSUMER PROTECTION

DATE: Wednesday, February 13, 2013 **TIME:** 8:30 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): David M. Louie, Attorney General, or
Kathryn-Jean T. Kanemori, Deputy Attorney General

Chair Baker and Members of the Committee:

The Attorney General requests the passage of this bill in the form of the attached proposed Senate Draft 1 that includes the technical amendments discussed below. The purposes this bill are to: (1) amend chapter 467B, Hawaii Revised Statutes (HRS), to extend existing provisions of the chapter that regulates registered charities, professional fundraisers, and professional solicitors, to commercial co-ventures; (2) clarify an exemption from registration requirements applicable to small charities; and (3) make technical amendments to the chapter.

Chapter 467B, HRS, regulates commercial co-ventures (for-profit businesses) who conduct cause related marketing that benefit charitable organizations. Existing reporting requirements, record keeping, and remedial provisions in chapter 467B, HRS, presently do not apply to commercial co-ventures. Imposing these reporting and record keeping requirements on commercial co-ventures assures that the charitable organizations that benefit from these commercial sales promotions have consented to the promotion and that the organization and the Attorney General have access to information relating to the marketing event. This bill extends these provisions to commercial co-ventures. The bill also clarifies the exemption for charities that normally receive less than \$25,000 annually by adding wording that provides for an "averaging" of the organization's contributions over the prior three years for purposes of applying the exemption, which will benefit small charities that unexpectedly receive a large contribution. The bill also makes stylistic and technical amendments to the chapter.

Technical Amendments Requested

The Attorney General requests the Committee to make the following technical or stylistic amendments to the bill.

1. Clarify the definition of “professional solicitor” in section 467B-1, Hawaii Revised Statutes, to include professional fundraising counsel who have custody or control of contributions.
2. Amend section 467B-2.1, Hawaii Revised Statutes, by repealing subsection (b) that requires the use of a uniform registration statement developed by the National Association of State Charity Officials as the registration form for charitable organizations. This amendment would allow the Attorney General to develop and use other registration forms.
3. Amend section 467B-8, Hawaii Revised Statutes, to clarify that the audited financial statements submitted to the Attorney General by registered charities are confidential information under chapter 92F, Hawaii Revised Statutes, and shall not be open for public inspection. An audited financial statement often contains confidential commercial and financial information belonging to the charity.
4. Amend section 467B-11.5, Hawaii Revised Statutes, to clarify that qualification for the exemption from registration for charities that normally receive less than \$25,000 in contributions annually will be determined based on the average of the organization’s contributions for the most recent preceding three years. Because the word “three” is presently missing in the bill as introduced, we request that the words on page 15, line 13, be amended to insert “three” in “immediately preceding three years.”
5. Amending section 467B-12, Hawaii Revised Statutes, to include a late filing fee of \$20 per day with a cap of \$1,000 applicable to professional solicitors and fundraising counsel that fail to timely renew their registration with the Attorney General unless such the failure is due to reasonable cause. Similar late fees are imposed on registered charities under section 467B-6.5, Hawaii Revised Statutes.

The Attorney General requests the Committee's favorable consideration of this bill and the requested amendments discussed above that have been incorporated into S.B. 1020 and are attached as Proposed S.B. 1020, S.D.1.