

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

MARCH 10, 2014
2:00 p.m.

MEASURE: S.B. No. 2682, S.D. 1

TITLE: Relating to Financial Disclosure Statements

Chair McKelvey and Members of the Committee:

DESCRIPTION:

This measure proposes to include members of the Public Utilities Commission (“Commission”) among those public officers whose currently-required financial disclosure statements must be made “public records and available for inspection and duplication” under Section 84-17(d), Hawaii Revised Statutes (“HRS”).

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, but notes that this bill is specific to members of the Commission (“Commissioners”). If the purpose of this measure is to ease the burden on the State Ethics Commission in having to review thousands of financial disclosure statements annually with an inadequate staff level, as has been testified to previously by the State Ethics

Commission and is clearly stated in this measure's purpose section,¹ it is not clear how making publicly available the financial disclosure statements of only three Commissioners is fair and effective while numerous other agencies remain exempt from the requirements of HRS § 84-17(d).

The Commission would also like to note that the law already prohibits a Commissioner from having any type of interest or remuneration from a public utility. Specifically, HRS § 269-2(a) states in part that "[n]o person owning any stock or bonds of any public utility corporation, or having any interest in, or deriving any remuneration from, any public utility shall be appointed a commissioner."

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 and affirming the lack of potential financial conflicts for a Commissioner.

Thank you for the opportunity to testify on this measure.

¹See Testimony of the Hawaii State Ethics Commission to the Senate Committee on Judiciary & Labor, S.B. No. 2682, Relating to Financial Disclosure Statements, February 7, 2014. In addition, Section 1 of this measure states:

"State board and commission members are required to file annual disclosure statements with the state ethics commission...Unfortunately, due to limited resources, the state ethics commission does not have the ability to search these records for potential conflicts of interest. The legislature, as well as the Hawaii state ethics commission, find that the public is in the best position to identify conflicts of interest."



HAWAII STATE ETHICS COMMISSION

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

March 10, 2014

The Honorable Angus L.K. McKelvey, Chair
The Honorable Derek S.K. Kawakami, Vice Chair
Honorable Members
House Committee on Consumer Protection & Commerce
Hawaii State Capitol, Room 325
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **Testimony on S.B. No. 2682, S.D. 1, Relating to Financial Disclosure Statements**

Hearing: Monday, March 10, 2014, 2:00 p.m.
State Capitol, Conference Room 325

Testimony From: Hawaii State Ethics Commission

The Hawaii State Ethics Commission (“Commission”) generally supports increased public disclosure of information that allows the public to examine whether a member of a state board or commission may have a conflict of interest.

Currently, almost 1,800 state employees and members of state boards and commissions are required to file annual financial disclosure statements with the Commission. Of those, approximately 180 employees and board/commission members’ disclosures are deemed to be public records, which the Commission makes available through its website. The other approximately 1,600 employees and board/commission members’ disclosures are, by law, confidential and available only to the Commission.

Because of the sheer number of disclosure statements, the Commission’s finite resources, and the Commission’s limited knowledge about the board/commission members’ official duties and their financial interests, the Commission’s ability to identify potential conflicts of interest is very limited and, frankly, except in rare circumstances, unlikely. The public, especially those who are involved with and may be impacted by the board/commission member’s action, is best able to identify and raise concerns about possible conflicts of interest.

The Commission, therefore, supports S.B. No. 2682, S.D. 1, which amends Hawaii Revised Statutes (“HRS”) section 84-17 to require that the financial disclosure

The Honorable Angus L.K. McKelvey, Chair
The Honorable Derek S.K. Kawakami, Vice Chair
Honorable Members
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statements filed by members of the Public Utilities Commission be available to and accessible by the public. The Commission, however, strongly recommends that the Committee consider requiring members of a number of other boards and commissions - those boards and commissions that are the "head" of a state department and vested with significant authority -- to file public financial disclosure statements. The Commission suggests that the Committee consider amending the bill to require that members of the following boards and commissions, in addition to the Public Utilities Commission, also file public financial disclosure statements:

1. The Board of Regents
2. The Board of Agriculture
3. The Board of Land and Natural Resources
4. The Hawaii Labor Relations Board
5. The Hawaiian Homes Commission
6. The Labor and Industrial Appeals Board

The Commission is aware that the members of most of the boards and commissions identified above serve without pay and that allowing the public to view their financial interests may discourage some from volunteering to serve;¹ however, the Commission strongly suggests that there are certain responsibilities and obligations to the public that members must accept in exchange for the privilege and honor of serving. In light of the State Ethics Code's fundamental purpose --- i.e., to foster public confidence in state government --- the Commission believes that those individuals responsible for department policy and other state policies about which there is a significant public interest should be required to publicly disclose financial information from which the public can consider whether the member has a conflict of interest.

Thank you for considering the Commission's comments regarding S.B. 2682, S.D. 1.

¹ It is the Commission's understanding that the members of the Public Utilities Commission, the Hawaii Labor Relations Board, and the Labor and Industrial Appeals Board are paid state employees.

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COMMITTEE ON CONSUMER PROTECTION & COMMERCE

Rep. Angus L.K. McKelvey, Chair

Rep. Derek S.K. Kawakami, Vice Chair

Monday, March 10, 2014

2:00 PM

Conference Room 325

SB 2682 SD1 Financial Disclosure

SB 2948 SD1 PUC Budget and Personnel

SUPPORT

SUPPORT

Aloha Chair McKelvey, Vice Chair Kawakami, and Members of the Committee

Life of the Land is Hawai`i's own energy, environmental and community action group advocating for the people and `aina for four decades. Our mission is to preserve and protect the life of the land through sound energy and land use policies and to promote open government through research, education, advocacy and, when necessary, litigation.

To handle the vast and complex world of energy policy the Public Utilities Commission (PUC) must have the resources to handle the job. They must be able to hire professionals with specialized expertise.

In order for the public to accept that the PUC is working in the public interest, there must be accountability and transparency.

SB 2948 gives the PUC the authority and the flexibility needed to do their job.

SB 2682 increases the public trust in the regulatory decision making process.

Please pass both bills.

Mahalo.

SB 2948 SD1: *“Hawaii is modernizing its entire energy system at an unprecedented pace. The public utilities commission often finds itself on the cutting edge in terms of addressing technical and regulatory issues related to the State's energy transition. Therefore, the State must continue to invest in the public utilities commission staff to manage the growing number, and increasingly technical complexity, of issues brought before the commission to ensure these important decisions are made in the public interest.*

The legislature additionally finds that emphasis must be placed on the quality, rather than the quantity, of professional staff of the public utilities commission, as well as the creation of a competitive salary structure to attract and retain a highly competent staff.

The purpose of this Act is to clarify the authority of the chairperson of the public utilities commission concerning operational expenditures and the hiring and retention of agency personnel.”

The Hawaii State Ethics Commission testified in favor of SB 2682

“Currently, almost 1,800 state employees and members of state boards and commissions are required to file annual financial disclosure statements with the Commission. Of those, approximately 180 employees’ disclosures are deemed to be public records, which the Commission makes available through its website. The other approximately 1,600 employees’ disclosures are, by law, confidential and available only to the Commission.

Because of the sheer volume of filings, the Commission’s finite resources, and the Commission’s limited knowledge about the employees, their official duties, and their financial interests, the Commission’s ability to identify potential conflicts of interest is very limited and, frankly, except in rare circumstances, unlikely.

For that reason, the Commission generally supports more public disclosure.

Members of the public, especially those who are involved with and may be impacted by the board or commission member’s action, are best able to identify and raise concerns about possible conflicts of interest.”