



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

ON THE FOLLOWING MEASURE:

S.B. NO. 66, RELATING TO THE CODE OF ETHICS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY & LABOR

DATE: Tuesday, February 5, 2013 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 016

TESTIFIER(S): David M. Louie, Attorney General, or
Charleen M. Aina, Deputy Attorney General

Chair Hee and Members of the Committee:

The Department of the Attorney General testifies to recommend that the amendment this bill makes to subsection (d) of section 84-17, Hawaii Revised Statutes (HRS), of the State Ethics Code, be revised to specify by name, the additional boards and commissions to which its public inspection requirement is to apply.

This bill amends section 84-17, HRS, which is entitled "Requirements of disclosure." Specifically, the bill adds to the list of state officials and employees in subsection (d) of section 84-17 whose financial disclosure statements are subject to public inspection, to include the members of boards and commissions that approve, issue, or renew permits or licenses relating to land use, water use, or the regulation of public utilities.

Because multiple agencies may approve or issue permits or licenses relating to land use, water use, or the regulation of public utilities for the same property, project or entity, and may also approve or issue certificates, tariffs, orders, decisions, and documents with other titles or names, this bill should be amended to list by name each of the boards and commissions to which this new paragraph (8) in subsection (d) of section 84-17 is intended to apply. For example, the Public Utilities Commission regulates public utilities, and issues or approves applications for certificates of convenience and necessity, tariffs, and regulatory decisions or orders. However, it may only approve or issue permits and licenses to motor carriers. On the other hand, the Land Use Commission, as well as the Office of Environmental Quality and Control (OEQC), may both approve applications, and issue permits, and decisions or orders relating to land use for the same parcel of land or project. Similarly, the OEQC and the State's Water Resource Management

Commission may both issue decisions or orders, and approve applications for certificates, permits, and licenses relating to water use for the same entity or project.

Most importantly, individuals who are asked to volunteer their time to serve as members of state boards and commissions need to know that their financial disclosure statements will be subject to public inspection, before they agree to serve.

The Department urges the Committee to make this clarification if it intends to report this measure to the floor for second reading.

1065 Ahua Street
Honolulu, HI 96819
Phone: 808-833-1681 FAX: 839-4167
Email: info@gcahawaii.org
Website: www.gcahawaii.org



LATE TESTIMONY

GCA of Hawaii

GENERAL CONTRACTORS ASSOCIATION OF HAWAII
Quality People. Quality Projects.

Uploaded via Capitol Website

February 5, 2013

TO: HONORABLE CLAYTON HEE, CHAIR, HONORABLE MAILE SHIMABUKURO VICE CHAIR AND MEMBERS OF THE SENATE COMMITTEE JUDICIARY AND LABOR

SUBJECT: **OPPOSITION TO S.B.66, RELATING TO STATE CODE OF ETHICS.**
Makes the financial disclosure statements of members of state boards and commissions holding official authority over permitting or licensing of land use related matters, water use related matters, or the regulation of public utilities public documents and available for public inspection and duplication.

HEARING

DATE: Tuesday, February 5, 2013
TIME: 10:00 A.M.
PLACE: Conference Room 016

Dear Chair Hee, Vice Chair Shimabukuro and Members:

The General Contractors Association (GCA) is an organization comprised of over six hundred (600) general contractors, subcontractors, and construction related firms. The GCA was established in 1932 is the largest construction association in the State of Hawaii. The GCA's mission is to represent its members in all matters related to the construction industry, while improving the quality of construction and protecting the public interest.

GCA is in **opposition** to S.B. 66, Relating to State Code of Ethics. This bill proposes to require that the background and filed financial disclosure statements of members of any state board and commission with authority over the permitting or licensing of land use related matters, water use related matters, or the regulation of public utilities, should be open and available for public inspection.

This bill is problematic and may be a violation of the Equal Protection, in that it targets volunteer members of specific boards and commissions to heightened public scrutiny. This law would unfairly treat those board members that may potentially meet this criteria of a board that may be associated with land use related matters, water related matter or the regulation of public utilities, by requiring that their financial disclosure statements be made available to the public. Why not require this of every member of over 160 state boards and commissions, why just those related to these specific related matters?

This bill seems to assume that select board members who deal with approvals related to land, water or public utilities already have some type of conflict of interest. It singles out select boards and commissions and appears to be a violation of equal protection and highly suspect of potential constitutional violations. Currently, under Section 84-31, Hawaii Revised Statutes, the Hawaii

State Ethics Commission has the duty and administration to oversee any conflicts that may arise for any legislator, employee or member of any board or commission. The Hawaii State Ethics commission has the tools necessary to address any potential conflict that may arise regarding any board or commission member, and not just ones limited to land, water or public utilities. Additionally, most all board or commission appointees are subject to Senate advise and consent proceedings whereby their backgrounds and any possible conflicts may be revealed during this process.

This bill may subject a slim number of boards and commissions to unfair and unequal treatment including, but not limited to, the Natural Area Reserves Commission, Commission of Water Resource Management, Board of Land and Natural Resources, Land Use Commission, Hawaii Community Development Authority, State Historic Preservation District, Agribusiness Development Corporation, Hawaii Housing Finance Development Corporation, Island Burial Councils, Kahana Valley Living Park Council, Molokai Irrigation System Water Users Advisory Board, Public Housing Authority, and Public Land Development Corporation.

The preamble of the bill suggests that “[f]inancial disclosure statements are not publicly available for the majority of the members of very powerful state boards and commissions. These boards and commissions shape the political, economic, social, environmental, and cultural fabric of society in Hawaii.” In that this statement may be true, it perpetuates the belief that the other boards and commissions that do not deal with these issues are less important and have no way in shaping Hawaii.

This bill is unfair and would subject a select number of boards and commissions members to a higher standard than others, which is a clear violation of the equal protection clause.

Thank you for the opportunity to present our views on this bill.



LEAGUE OF
WOMEN VOTERS[®]

LATE TESTIMONY

League of Women Voters of Hawaii

49 South Hotel Street, Room 314 | Honolulu, HI 96813

www.lwv-hawaii.com | 808.531.7488 | voters@lwvhawaii.com

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair and Senator Maile S.L. Shimabukuro, Vice Chair
Tuesday, February 5, 2013, 10:00 a.m., Room 016

SB 66, RELATING TO THE CODE OF ETHICS

TESTIMONY

Janet Mason, Vice-President, League of Women Voters of Hawaii

Chair Hee, Vice-Chair Shimabukuro, and Committee Members:

The League of Women Voters of Hawaii supports SB 66 which provides for public disclosure of the financial statements of members of state boards or commissions that have official authority that includes approving, issuing, or renewing permits or licenses relating to land use, water use, or the regulation of public utilities.

We believe the public officials described in this measure serve in good faith as the "eyes and ears of the public" for critical policy and permitting decisions for our State. We further believe providing financial disclosure to the Ethics Commission is the source of the bright light which guarantees to the public these decisions will be made without personal conflicts of interest on the part of these officials.

Like executive public officials, when state board members or commissioners make their financial statements available for inspection and duplication, it builds trust with the public that important State transactions are completed with the best interests of the public in mind. The value of building a culture of honesty and openness in public affairs is impossible to quantify, but it's real. We urge you to pass this bill.

Thank you for the opportunity to submit testimony.

hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 04, 2013 3:49 PM
To: JDLTestimony
Cc: amori@chaminade.edu
Subject: Submitted testimony for SB66 on Feb 5, 2013 10:00AM

SB66

Submitted on: 2/4/2013

Testimony for JDL on Feb 5, 2013 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Art Mori	Individual	Support	No

Comments: Open government is the best government. Please let the sunshine in!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 04, 2013 2:20 PM
To: JDLEstimony
Cc: lbaron@hawaii.rr.com
Subject: Submitted testimony for SB66 on Feb 5, 2013 10:00AM

SB66

Submitted on: 2/4/2013
Testimony for JDL on Feb 5, 2013 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Laurie Baron	Individual	Support	No

Comments: Aloha Kakou, Please pass SB 66 to improve the public's trust in government. By requiring financial disclosure for members of state boards or commissions that have official authority that includes approving, issuing, or renewing permits or licenses relating to land use, water use, or the regulation of public utilities, the public's confidence in these boards and commissions will improve. Thank you for your support of this bill, aloha, Laurie Baron

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

February 4, 2013

COMMITTEE ON JUDICIARY AND LABOR
Senator Clayton Hee, Chair
Senator Maile S.L. Shimabukuro, Vice Chair

RE: support for SB66 Financial Disclosure Statements; Boards and Commissions; Public Documents

Aloha Senator,

As a voter, and an advocate for representative democracy, I humbly request a reading and passage of this bill. It would seem apparent to the voting public that financial disclosure should be required through all levels of state government from the governor down through state boards and commission members where a lot of the actual boots on the ground work of government is performed. As a contributing member of our democratic institutions, I feel we should have public access to financial information through all levels of state government. This information will help reveal potential conflicts of interest and will allow us to feel confident that monies are being spent with the state and its voting public's best interest in mind.

Mahalo,

Marvin Heskett
3252 Palolo Terrace Pl.
Honolulu, HI 96816

hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 04, 2013 11:59 AM
To: JDLEstimony
Cc: ruth@2bolo.com
Subject: Submitted testimony for SB66 on Feb 5, 2013 10:00AM

SB66

Submitted on: 2/4/2013

Testimony for JDL on Feb 5, 2013 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
R bolomet	Individual	Support	No

Comments: I support this measure as another means of transparency. I have seen for years how despite the rules and laws, especially when it comes to development/ developers, approving bio-tec farming, that is harmful to the health of the people of this state, and the taking of allodial title lands which continues to go on in this state despite international, federal, US constitutional, Hawaii State Constitutional laws and HRS, community plan protections, which prohibit these types of crimes to occur. We as the sovereign (the People) in this country needs to have clarity as to how, why and what is the motivation of those passing the unlawful transactions. We need to stop operating as an unlawful 3rd world nation where the highest bidder gets the vote and remember it is we the people who are the government and it is for we the people that these laws are supposed to be created, rather than the trend of having laws in regulations in place to protect the corporations that can cause the most harm. I hope this bill becomes law as a symbol that the people still are in power rather than those on the pay roll of those who take advantage of our system and the people of Hawaii!

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

Do not reply to this email. This inbox is not monitored. For assistance please email webmaster@capitol.hawaii.gov

COMMITTEE ON JUDICIARY AND LABOR

Senator Clayton Hee, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

IN SUPPORT of SB66 Relating To the Code of Ethics

Hearing: February 5, 2013, 10:00 a.m.

I SUPPORT any measure that ensures additional transparency and accountability of individuals serving in state government.

Any member of any state board or commission should be required to file financial disclosure statements, and the disclosure statements should be publicly available, as is the practice in Maui County for all members of boards and commissions.

However, I would recommend that the proposed language of Section (8) be amended as follows:

(8) ~~The~~ All members appointed to any state boards or commission[.]s ~~that have official authority that includes approving, issuing, or renewing permits or licenses relating to land use, water use, or the regulation of public utilities.~~

Submitted by: Sally Kaye, Lana`i City, HI 96763