



HAWAII STATE ETHICS COMMISSION

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

April 2, 2013

The Honorable Karl Rhoads, Chair
The Honorable Sharon E. Har, Vice Chair
Honorable Members
House Committee on Judiciary
Hawaii State Capitol, Room 438
415 South Beretania Street
Honolulu, Hawaii 96813

Re: **Testimony on S.B. No. 848, S.D. 1, H.D. 1, Relating to Financial Disclosure**

Hearing: Tuesday, April 2, 2013, 2:00 p.m.
State Capitol, Conference Room 325

Testimony From: Hawaii State Ethics Commission

The Honorable Karl Rhoads, Chair; The Honorable Sharon E. Har, Vice Chair;
and Honorable Members of the House Committee on Judiciary:

The Hawaii State Ethics Commission (“Commission”) understands the intent of S.B. No. 848, S.D. 1, H.D. 1, Relating to Financial Disclosure, to be to require disclosure of the identity of lobbyists or organizations that lobby for which a legislator or employee performs services for pay, whether payment is made directly to the legislator or employee or payment is made to the legislator or employee through another person or entity. With that understanding, the Commission supports the general intent of S.B. No. 848, S.D. 1, H.D. 1; however, the Commission has concerns that the bill in its present form is too broad.

For the reasons stated below, the Commission proposes that the language of S.B. No. 848, S.D. 1, H.D. 1 be amended.

Given that the bill is intended to capture income received from lobbyists or organizations that lobby, it appears that the bill is significantly more relevant to legislators than to employees. The Commission recommends that S.B. No. 848, S.D. 1, H.D. 1 should not apply to employees.

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S.B. No. 848, S.D. 1, H.D. 1 does not state a specific dollar threshold for reporting compensation received from a lobbyist or a lobbying organization. The bill's threshold of "income that totals more than the employee's or legislator's salary" likely is too high to capture any or most of the individual items of compensation that are intended to be captured. The Commission recommends a dollar threshold of \$1,000, which is consistent with the \$1,000 threshold currently required under section 84-17(f) for reporting income for services rendered.

Section 84-17(f)(1) currently does not require legislators to report "individual items of compensation that constitute a portion of the gross income of the business or profession from which the [legislator] derives income." Thus, in situations where a legislator performs paid work for a lobbyist or lobbying organization, the lobbyist or lobbying organization pays the legislator's company for that work, and the legislator's company in turn pays the legislator, the legislator's disclosure statement reflects his own company as the source of the income, rather than the lobbyist or the lobbying organization. By not requiring a legislator to report the individual items of compensation, the purpose of the financial disclosure law is frustrated because substantial sources of income remain undisclosed. The Commission therefore recommends that a new subsection be added to section 84-17(f), specifically applicable to legislators, which sets forth requirements for reporting income for services rendered.

In light of the foregoing, the Commission proposes that the language of S.B. No. 848, S.D. 1, H.D. 1 be amended to read as follows:

- (8) In addition to the information required by subsections (1) through (7), all legislators shall disclose the source and amount of individual items of compensation of \$1,000 or more received by the legislator or by a business or profession from which the legislator receives income, for services rendered by the legislator to a lobbyist as defined in chapter 97 or to a person or organization that employs a lobbyist, and the nature of the services rendered. Information that may be privileged by law or individual items of compensation from a source other than a lobbyist or person or organization that employs a lobbyist that constitute a portion of the gross income of the business or profession from which the legislator receives income need not be disclosed.

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The above language will require a legislator to disclose individual items of compensation received from the clients of a business (e.g., a law firm, consulting firm, or other business that the legislator works for) who are lobbyists or organizations that employ lobbyists. Legislators whose employers are lobbyists or organizations that employ lobbyists would still be required to report the source and amount of their income under the current version of section 84-17(f)(1).

S.B. No. 848, S.D. 1, H.D. 1 as amended would add a new subsection (8) to section 84-17(f).

Thank you for the opportunity to submit testimony on S.B. No. 848, S.D. 1, H.D. 1.

SB848

Submitted on: 4/1/2013

Testimony for JUD on Apr 2, 2013 14:00PM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Larry Geller	Individual	Support	No

Comments: This is in support of this bill with the amendments suggested by Les Kondo, Executive Director of the Ethics Commission, including and especially the paragraph below: (8) In addition to the information required by subsections (1) through (7), all legislators shall disclose the source of individual items of compensation of \$25,000 or more received by the legislator or by a business or profession from which the legislator receives income, for services rendered by the legislator to a lobbyist as defined in chapter 97 or to a person or organization that employs a lobbyist, and the nature of the services rendered. Information that may be privileged by law or individual items of compensation from a source other than a lobbyist or person or organization that employs a lobbyist that constitute a portion of the gross income of the business or profession from which the legislator receives income need not be disclosed.

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.

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