



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

ON THE FOLLOWING MEASURE:
S.B. NO. 893, RELATING TO ETHICS.

BEFORE THE:

SENATE COMMITTEE ON JUDICIARY AND 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 make the recommendation included below.

The purpose of this bill is to make the exemption from section 84-14, Hawaii Revised Statutes (HRS), of the State Ethics Code that was added by section 5 of Act 208, Session Laws of Hawaii 2012, applicable to the members of the Mortgage Foreclosure Task Force from June 3, 2010, when Act 162, Session Laws of Hawaii 2010, established the task force, through and including June 30, 2012, when the task force ceased to exist by the terms of Act 162.

If the Committee agrees that Act 208 should have retroactively exempted the members of the Mortgage Foreclosure Task Force from the requirements of subsections (a), (b), and (d) of section 84-14, HRS, from June 3, 2010, when the task force was created, the Department recommends that this one-time situation be addressed by amending section 2 of this bill to either

- (1) Amend the effective date section of Act 208 to expressly make its provisions apply to members of the task force from June 30, 2010, or
- (2) Directly preclude the State Ethics Commission from applying section 84-14's provisions to the members of the task force, if the members satisfy the disclosure requirements under section 84-17, HRS, for the period June 3, 2010, through June 30, 2012, within a specified period of time after the effective date of this bill.

Please call or email if there is a question about the Department's recommendation.



LEAGUE OF
WOMEN VOTERS®

LATE TESTIMONY

League of Women Voters of Hawaii

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

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SENATE 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 893, RELATING TO 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 opposes SB893 which proposes to grant exemptions from the State's conflict of interest and confidentiality laws for "task force members and designees or representatives of members of any task force **that existed on or after June 3, 2010.**"

Under Chapter 84, "task force" includes any group convened for a limited, specified period by legislative or executive act or order, or by invitation of a state officer for the purpose of studying a subject or issue, making recommendations, or advising state officials. But **only since July 1, 2012** have such task force members been exempt from the conflict of interest and confidentiality provisions of the State Ethics Code.

The League of Women Voters and many other public interest organizations adamantly opposed these 2012 exemptions for task forces because we were gravely concerned about the inherent risk of actual or perceived conflicts of interest that could arise during the normal course of a task force assignment. We also cautioned that while the stated purpose of last year's law was to exempt those on a task force from the conflict of interest and confidentiality laws, such an exemption may have unintended consequences, such as totally excluding task force members from the state ethics code.

Now we are left dumbfounded about why this measure should be retroactive to June 3, 2010, when the 2012 conference committee specifically amended last year's bill to make the measure effective July 1, 2012.



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We want all those who participate in the formulation of public policy, laws and rules to be held to a high standard. The purpose in having a Code of Ethics is to prevent corruption in government. We urge you to hold the bill in committee.

We urge you to vote down this bill. Thank you for the opportunity to submit testimony.

LATE TESTIMONY



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Testimony to the Senate Committee on Judiciary and Labor
February 4, 2013

Testimony in Support of SB 893, Relating to Ethics

To: The Honorable Clayton Hee, Chair
The Honorable Maile Shimabukuro, Vice-Chair
Members of the Committee

My name is Stefanie Sakamoto, and I am testifying on behalf of the Hawaii Credit Union League, the local trade association for 78 Hawaii credit unions, representing approximately 804,000 credit union members across the state.

We are in support of SB 893, Relating to Ethics, which would provide an exemption for members of task forces or working groups established by the legislature from the conflict of interest law under the state ethics code, and excludes such members from the definition of "employee". As the legislature is aware, an ethics problem arose with respect to the Mortgage Foreclosure Task Force in 2011, of which HCUL was a member. We appreciate the efforts of the legislature to provide an exemption for the Mortgage Foreclosure Task Force, and to avoid similar problems in the future, so that we may continue to participate in such task forces and/or working groups if asked.

Thank you for the opportunity to testify.

888 Mililani Street, 2nd Floor
Honolulu, Hawaii 96813-2918
February 4, 2013

SENATE COMMITTEE ON JUDICIARY AND LABOR
REGARDING SENATE BILL 893

Hearing Date: TUESDAY, February 5, 2013
Time : 10:00 a.m.
Place : Conference Room 016

Chair Hee, Vice Chair Shimabukuro, and Members of the Committee,

My name is John Morris and I am testifying in support of Senate Bill 893. Last year, I served on the Mortgage Foreclosure Task Force and was surprised by the ruling that members of the task force had conflicts of interest serving on the task force. There seemed to be no logical basis for the ruling. Therefore, SB 893 serves a worthwhile purpose of clarifying there was no conflict of interest and should be no conflict of interest when volunteers agreed or agree to serve on a task force to assist the Legislature.

In 2012, there was no confusion or misunderstanding on the Mortgage Foreclosure Task Force that certain people represented certain interest groups and held positions supporting those interest groups. Every member of the Mortgage Foreclosure Task Force was very clear on that issue. In addition, that was true of everyone on the task force: they all had positions to present. Moreover, recognizing that everyone had a particular position was not seen as a conflict or even a disadvantage. Instead, it was seen as a benefit, by allowing the task force to receive information on all points of view and to hear arguments from all sides on how mortgage foreclosures should be handled.

The fact that some of the members of the task force were or might have been paid lobbyists for their interest groups seems to have been significant in the ruling of conflict of interest. I received no payment and was simply on the task force as a representative of the homeowner association interest group. Nevertheless, the possibility that some members of the group might have been or have served as paid lobbyists did not change my perception of the benefits of having them on the task force. Nor did it give them any advantage.

TESTIMONY REGARDING SENATE BILL 893

February 4, 2013

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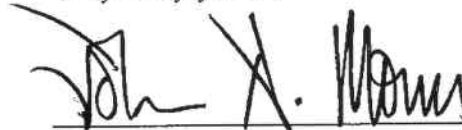
Certainly, their opinions received no more weight than anyone else's opinion. Moreover, the benefit of having them was to provide the opinions and concerns of their interest group. In addition, whether paid or not, everyone else on the task force, including me, was working hard to protect the interests of the group they represented, consistent with the overall benefit to the community.

Finally, everyone on the committee recognized -- and it was made clear to everyone on the committee -- that they were only making recommendations to the Legislature and that the Legislature would make the ultimate decision on any legislation that might be recommended by the task force. On that basis, the fact that anyone represented a particular interest group and was paid or not paid to do so was irrelevant for purposes of the work of the task force.

In summary, potential members of a task force should not be prohibited or have their participation in a task force limited by claims of conflict of interest because they represent particular groups or interests. Otherwise, the legislature will lose sources of important and helpful information that would be available to allow them to make informed and reasonable decisions for their constituents. Therefore, I support SB 893.

Please contact me at 523-0702 if you have any questions. Thank you for this opportunity to testify.

Very truly yours,

A handwritten signature in black ink, appearing to read "John A. Morris", written over a horizontal line.

John A. Morris

JAM:alt

G:\C\2013 Testimony SB 893 (02.04.13)