



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-EIGHTH LEGISLATURE, 2016**

ON THE FOLLOWING MEASURE:

S.B. NO. 1067, S.D. 2, , H.D.1, RELATING TO CHARITABLE SOLICITATION.

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Friday, April 1, 2016

TIME: 11:00 a.m.

LOCATION: State Capitol, Room 308

TESTIFIER(S): Douglas S. Chin, Attorney General, or
Hugh R. Jones, Deputy Attorney General

Chair Luke and Members of the Committee:

All of the proposed amendments contained in this bill were incorporated into S.B. No. 2812, S.D. 2, H.D. 1, by the House Committees on Commerce & Consumer Protection, and on Judiciary, which is scheduled to be heard by this Committee at 1:00 p.m. today. At this point, the Department of the Attorney General (the “Department”) would prefer that the Committee pass out S.B. No. 2812, S.D. 2, H.D. 1. However, if the Committee chooses to pass S.B. No. 1067, S.D. 2, H.D. 1, the Department supports the passage of this bill with proposed minor amendments noted below.

The purposes of this bill are to amend Hawaii’s charitable solicitation law to: (1) clarify that persons are not subject to registration requirements applicable to professional fundraising counsels, solely by virtue of the fact that they assist in preparing grant applications; (2) require registered professional solicitors to make certain affirmative disclosures in the course of solicitation to ensure that potential donors know they are being contacted by a paid solicitor and to prevent donor confusion; (3) clarify that only charitable organizations that solicit contributions from the public are subject to registration requirements and allow charities that have a group exemption ruling from the IRS to register on behalf of all subordinate organizations; (4) provide for electronic submission of end of solicitation campaign financial reports by registered professional (paid) solicitors and impose a late fee for the late submission of annual financial reports by registered professional solicitors identical to the existing late fee in section 467B-6.5(e), Hawaii Revised Statutes (HRS), for the late submission of financial reports by registered charities; (5) clarify provisions applicable to commercial co-venturers and create penalties for

non-compliance; (6) extend the filing due date for charities to submit their annual report, eliminate the annual fee for charitable organizations that have under \$25,000 in gross revenues and tie the requirement for audited financial statements to “contributions” and not gross revenues; and (7) clarify the registration exemption applicable to accredited educational institutions and facilitate the electronic submission of exemption applications by charitable organizations eligible for a registration exemption.

Requested Minor Amendments.

The Department respectfully requests that the Committee amend the bill to include the following minor amendments, which are contained in S.B. No. 2812, S.D. 2, H.D. 1. The Hawaii Alliance of Nonprofit Organizations, the Association of Fundraising Professionals, and others in the nonprofit sector submitted testimony to the House Committees on Commerce & Consumer Protection and on Judiciary in support of these provisions. The references below are to the locations within S.B. No. 1067, S.D. 2, H.D. 1.

1. Section 5, page 11, line 18, of the bill. The Department requests that the word “fine” be deleted and replaced with “late fee” for consistency with how the fees for failing to timely file required reports are described with respect to professional solicitors and registered charities in other sections of HRS chapter 467B.

2. Section 6, page 10, lines 9 -11, of the bill. The Department requests that the first sentence be amended to provide as follows:

“(a) Every registered charitable organization [~~required to register pursuant to section 467B-2.1~~] shall annually file with the department a report for its most recently completed fiscal year.

3. At the end of section 6 of the bill, page 16, following line 19. Law firms specializing in state registration requirements nationwide have requested this amendment due to the fact that describing the fee as a “fine” would require registered professional fundraisers to report the imposition of this “fine” on renewal registrations in almost 39 states. The Department is agreeable to this change. Therefore the Department requests that an amendment be made to the bill to include an amendment to section 467B-6.5(e), HRS, to delete the word “fine” and replace it with “late fee.” The subsection would therefore provide:

“(e) If a return, report, or filing fee required under this section is not filed or paid, taking into account any extension of time for filing, unless it is shown that the failure is due to reasonable cause, a [~~fine~~] late fee of \$20 shall be imposed for each day during which the violation continues; provided that the total amount imposed under this subsection shall not exceed \$1,000.”

The Department respectfully requests the Committee’s favorable consideration of this measure with the minor amendments noted herein.



LATE

**Testimony to the House Finance Committee
Representative Sylvia Luke, Chair
Representative Scott Nishimoto, Vice Chair
Friday, April 1, 2016, 11 a.m.
Conference Room 308
SB1067 SD 2, HD 1 - Relating to Charitable Solicitation**

Dear Chair Luke, Vice Chair Nishimoto and members of the Finance Committee:

On behalf of the Hawai'i Alliance of Nonprofit Organizations, I would like to offer our comments in **support of SB 1067 SD 2, HD 1**, relating to charitable solicitation.

Hawai'i Alliance of Nonprofit Organizations (HANO) is a statewide, sector-wide professional association of nonprofits. Our mission is to unite and strengthen the nonprofit sector as a collective force to improve the quality of life in Hawai'i. Our member organizations provide essential services to every community in the state.

HANO supports this measure if it is the only remaining vehicle in which to make changes to the charitable solicitation law. However, there is a similar bill in SB 2812, SD 2, HD 1, which is preferable in proposed language because it includes two provisions, which HANO strongly supports:

- Filing fees: SB 2812, SD 2, HD 1 reduces the annual filing fee from \$10 to \$0 for small organizations (under \$25,000 in annual revenue). This change would encourage additional small organizations to file reports instead of filing for exemptions. With more organizations filing reports, the state will have more data about Hawaii's nonprofit sector.
- Audited financial reports: The SB 2812 SD2, HD 1 requires audited financial reports for organizations with contributions (instead of gross revenues) over \$500,000. Audited financial reports prepared by CPAs are extremely costly, and represent a major burden for smaller nonprofits. Furthermore, they may be unnecessary for many smaller nonprofits with relatively uncomplicated financial structures. This change will relieve many small to medium nonprofits from the burden of this expense. Please note that nonprofits will still be subject to other reporting requirements, including submitting their IRS Form 990 that includes extensive financial and governance disclosures.

Thank you for the opportunity to provide written testimony. Mahalo.

Lisa Maruyama
President & CEO