



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
TWENTY-NINTH LEGISLATURE, 2018**

ON THE FOLLOWING MEASURE:

H.B. NO. 2321, RELATING TO CHARITABLE ORGANIZATIONS.

BEFORE THE:

HOUSE COMMITTEE ON CONSUMER PROTECTION AND COMMERCE

DATE: Friday, February 02, 2018

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 329

TESTIFIER(S): Russell A. Suzuki, First Deputy Attorney General, or
Stacie M. Nakamura, Deputy Attorney General

Chair Takumi and Members of the Committee:

The Department of the Attorney General supports this bill. This bill amends Hawaii's charitable solicitation and registration law, chapter 467B, Hawaii Revised Statutes (HRS). We request the bill be passed out with the amendment noted below.

Specifically, this bill will (1) replace the term "gross revenue" with "total revenue" to be consistent with the Internal Revenue Service Form 990 "total revenue" amount, (2) ensure that the public receives timely information about professional solicitation campaigns by clarifying that professional solicitors that conduct solicitation campaigns lasting more than one year must file financial reports annually, and file a financial report after the end of the campaign, (3) protect charitable organizations by requiring commercial co-venturers to deliver an accounting and the benefit to the charitable organization for which it is soliciting within ninety days of the end of the promotion, and within ninety days of the anniversary of the promotion lasting greater than one year, (4) relieve from the requirement to submit an audit report as currently required those registered organizations that receive more than \$500,000 in contributions and are not required to obtain an audit report by any other party, and (5) protect audited financial statements of all charitable organizations, not just charities, from public disclosure.

Requested Amendment

Due to an oversight, the bill as introduced does not include a substantive revision that was made in further drafts of this bill in the drafting process. We respectfully request that the Committee amend the bill to insert a new section to amend section 467B-11.5, HRS, to reinsert the Hawaii Council of Private Schools as a licensing or accrediting organization. The Hawaii Council of Private Schools was mistakenly removed from the list during the 2017 legislative session. Attached is the requested amendment to section 467B-11.5.

This bill will assist the Attorney General in his oversight of charitable organizations and fundraising activities, will clarify regulatory procedures for the nonprofit sector, and will provide additional disclosures to the public.

We respectfully request that the Committee pass this bill with the requested amendment.

SECTION __. Section 467B-11.5, Hawaii Revised Statutes, is amended to read as follows:

"§467B-11.5 Charitable organizations exempted from registration and financial disclosure requirements. The following charitable organizations shall not be subject to sections 467B-2.1 and 467B-6.5, if the organization submits an application for an exemption to the department and the department approves the organization's application:

- (1) Any duly organized religious corporation, institution, or society that is exempt from filing Form 990 with the Internal Revenue Service pursuant to section 6033(a)(3)(A)(i) and (iii) and (C)(i) of the Internal Revenue Code, as amended;
- (2) Parent-teacher associations;
- (3) Any educational institution that is licensed or accredited by any of the following licensing or accrediting organizations or their successor organizations:
 - (A) Hawaii Association of Independent Schools;
 - (B) Hawaii Council of Private Schools;
 - ~~[(B)]~~ (C) Western Association of Schools and Colleges;
 - ~~[(C)]~~ (D) Middle States Association of Colleges and Schools;

~~[(D)]~~ (E) New England Association of Schools and
Colleges;

~~[(E)]~~ (F) Higher Learning Commission;

~~[(F)]~~ (G) Northwest Commission on Colleges and
Universities;

~~[(G)]~~ (H) Southern Association of Colleges and
Schools;

~~[(H)]~~ (I) The National Association for the Education
of Young Children; or

~~[(I)]~~ (J) AdvancED;

- (4) Any organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code expressly authorized by, and having an established identity with, an education institution accredited by one of the accrediting agencies as provided in paragraph (3); provided that the organization's solicitation of contributions is primarily directed to the students, alumni, faculty, and trustees of the institutions and their respective families;
- (5) Any nonprofit hospital licensed by the State or any similar provision of the laws of any other state;
- (6) Any corporation established by an act of the United States Congress that is required by federal law to submit to Congress annual reports, fully audited by

the United States Department of Defense, of its activities including itemized accounts of all receipts and expenditures;

- (7) Any agency of this State, another state, or the federal government; and
- (8) Any charitable organization that normally receives less than \$25,000 in contributions annually, if the organization does not employ or compensate a professional solicitor or professional fundraising counsel. For purposes of this paragraph, an organization normally receives less than \$25,000 in contributions annually if, during the immediately preceding three fiscal years, it received, on average, less than \$25,000 in contributions.

The attorney general may require the application for exemption to be filed electronically with the department and may require the use of electronic signatures."

Aloha United Way
200 N. Vineyard Blvd., Suite 700
Honolulu, Hawaii 96817



February 1, 2018

To: Representative Roy M. Takumi, Chair, Committee on Consumer Protection & Commerce
Representative Linda Ichiyama, Vice-Chair, Committee Consumer Protection & Commerce

Re: HB 2321 Relating to Charitable Organizations – **SUPPORT with Suggested Improvements**

Hearing: Date, February 2, 2018; Hearing Time 2:00; Conference Room 329

Honorable Chairs & Committee Members:

Aloha United Way (AUW) supports the intent of HB 2321 which amends Chapter 414D of the Hawaii Revised Statutes. However, AUW believes that the Attorney General's office is the proper place to establish a total revenue amount that requires a nonprofit organization to complete an annual audit. Therefore we request some modification to HB 2321.

AUW believes that annual audits are a "best practice" to ensure the financial stability of a nonprofit organization. However, annual audits are expensive and therefore not appropriate for all nonprofits. We feel it is important to establish a reasonable revenue threshold and require all nonprofits with total revenues (as defined in this Bill) that exceed the threshold to submit their annual audit to the Attorney General. By establishing a total revenue threshold the Attorney General reinforces the State's commitment to ensuring the financial viability of nonprofits operating under their jurisdiction.

We suggest that Section 467B-6.5 be amended to read as follows "A charitable organization required to obtain an audit report by a governmental authority, a third party, or if their total revenues exceed \$1,000,000 shall include with its annual financial report, an audit report prepared in accordance with generally accepted accounting principles, by a certified public accountant."

Thank you for the opportunity to submit testimony. We urge your favorable consideration of HB 2321 with our suggested changes.

Sincerely,

A handwritten signature in black ink, appearing to read "Norm Baker".

Norm Baker
Chief Operating Officer



***Our Vision:** Charitable organizations have the philanthropic resources necessary to fulfill their missions for a better Hawaii.*

***Our Mission:** We advance philanthropy throughout Hawaii by actively promoting the practice of ethical and effective fundraising with education, training, advocacy, and mentoring for the benefit of all, with the spirit of aloha.*

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February 2, 2018 at 2:00pm
Conference Room 329

House Committee on Consumer Protection & Commerce

To: Representative Roy Takumi, Chair
Representative Linda Ichiyama, Vice Chair

From: Cathy Alsup, CFRE
President – AFP Aloha Chapter

RE: HB 2321 – Testimony in Support

My name is Cathy Alsup, President of the Association of Fundraising Professionals – Aloha Chapter (AFP Aloha Chapter). The AFP Aloha Chapter advances philanthropy throughout Hawaii by actively promoting the practice of ethical and effective fundraising. We are committed to education, training, advocacy, and mentoring in the field of fundraising for the benefit of all, with the spirit of aloha. Founded in Hawaii in 1983, the Association of Fundraising Professionals (AFP) Aloha Chapter is a professional association whose membership is comprised of persons involved in non-profit development, non-profit management and fundraising consulting. The chapter members represent organizations on Oahu, Maui, Kauai and the Big Island.

The Association of Fundraising Professionals Aloha Chapter supports HB 2321 and the multiple amendments it makes to the laws governing the regulation of charitable organizations in Hawai'i. AFP appreciates this measure's proposals that seek to improve and clarify the charitable solicitation law.

HB 2321 clarifies requirements of the reporting process surrounding solicitation campaigns and events, particularly regarding the circumstances under which a commercial co-venturer must provide a charitable organization with an accounting. Additionally, the specific timeframe requirements installed by this measure will help to ensure that charitable organizations report to the Attorney General in a timely fashion so that state-wide records are maintained. Finally, the edits throughout Section 467B of Hawai'i Revised Statutes which update "gross revenue" to "total revenue" greatly clarify the operating and reporting requirements for charitable organizations.

Thank you for the opportunity to testify in support of HB 2321. This measure helps to clarify the laws governing charitable organizations and will make it easier for organizations to ensure they are complying with State Law.



TO: The Honorable Roy Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
House Committee on Consumer Protection and Commerce

FROM: Philip J. Bossert, Executive Director
Hawaii Association of Independent Schools

RE: HB 2321 - RELATING TO CHARITABLE ORGANIZATIONS
In Support with amendments

DATE: Friday, February 2, 2018
2:00 pm, Conference Room 329

Aloha Chair Takumi, Vice Chair Ichiyama, and Members of the Committee:

The Hawaii Association of Independent Schools (HAIS) is a membership organization that currently represents 93 of Hawaii's private and independent schools; and, in collaboration with the Western Association of Schools & Colleges (WASC) accredits 51 of those 93 institutions. The other 43 institutions are either licensed by HAIS's subsidiary organization, the Hawaii Council of Private Schools (HCPS) but choose not to be accredited by HAIS/WASC, or they are accredited by some other educational accrediting body, such as those representing Catholic schools, Adventist schools, Christina schools, etc.

In 1995, Act 188 deregulated Hawaii Dept. of Education's (HDOE) licensing of Hawaii private schools. The legislature requested that HAIS form a new subsidiary organization to take over the responsibility from HDOE for licensing of private schools in Hawaii. In a 1998 memorandum of agreement between HDOE and HAIS, HCPS was formed by HAIS to license Hawaii private schools and to ensure that transcripts and credits earned at HCPS-licensed schools would continue to be recognized and accepted as valid for transfer to other educational institutions.

HCPS has performed this licensing function since 1998 and has been included in the Hawaii Office of the Attorney General's list of authorized accrediting and licensing organizations. However, HCPS was inadvertently removed from this list of acknowledged licensing and accrediting agencies, due to the dissolution of HCPS as a not-for-profit corporation and its restructuring as a Limited Liability Corporation.

Thus, HAIS supports HB 2321 but requests that it be amended to include HCPS once again as a recognized licensing agency for all private schools in the State of Hawaii.

Thank you.



TO: The Honorable Roy Takumi, Chair
The Honorable Linda Ichiyama, Vice Chair
House Committee on Consumer Protection and Commerce

FROM: Edna L. Hussey, Chair
Hawaii Council of Private Schools

RE: HB 2321 - RELATING TO CHARITABLE ORGANIZATIONS
In Support with amendments

DATE: Friday, February 2, 2018
2:00 pm, Conference Room 329

Aloha Chair Takumi, Vice Chair Ichiyama, and Members of the Committee:

The Hawaii Council of Private Schools, LLC, is a subsidiary of the Hawaii Association of Independent Schools. In 1995, Act 188 deregulated HDOE's licensing of Hawaii private schools. In a 1998 memorandum of agreement between HDOE and HAIS, HCPS was formed by HAIS to license Hawaii private schools and to ensure that transcripts and credits earned at HCPS-licensed schools would continue to be recognized and accepted as valid.

The Hawaii Council of Private Schools (HCPS, LLC) supports HB 2321 with amendments. There are approximately 80 licensed private schools among nearly 150 schools in Hawaii operating as educational programs. An HCPS-licensed school must meet established licensing criteria, which address safety and health, a viable educational program, facilities, governance, administration, faculty/staff, admissions, and finances. A school must be re-licensed upon the expiration of term of license.

HCPS supports HB 2321 but respectfully requests that it be amended to include HCPS once again as one of the charitable organizations recognized in section 467B-11.5 of the Hawaii Revised Statutes. Unfortunately, we were inadvertently deleted through Act 86 in last year's 2017 Legislative Session.

Thus, the Hawaii Council of Private Schools, in conjunction with the Hawaii Association of Independent Schools, asks the committee to amend the measure. Thank you for the opportunity to submit testimony.