

HB 0071

**RELATING TO
ETHICS**

A BILL FOR AN ACT

RELATING TO ETHICS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 84, Hawaii Revised Statutes, is amended
2 by adding a new section to part II to be appropriately
3 designated and to read as follows:

4 "§84- Executive heads of state and counties; outside
5 employment and emolument prohibited. (a) It shall be unlawful
6 for any governor or county mayor, while serving in that
7 capacity, to maintain any other employment or receive any
8 emolument after the effective date of this Act.

9 (b) As used in this section, "emolument" means any salary,
10 fee, payment, wage, earning, allowance, stipend, honorarium, or
11 reward; provided that "emolument" does not include the salary or
12 benefits for service as governor or mayor or any pension,
13 retirement, or social security payment."

14 SECTION 2. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun before its effective date.

17 SECTION 3. New statutory material is underscored.



H.B. NO. 71

1 SECTION 4. This Act shall take effect on January 1, 2018.

2

INTRODUCED BY: *Scottson*

[Signature]

[Signature]

JAN 18 2017



H.B. NO. 71

Report Title:

Governor; Mayors; Outside Employment; Emoluments; Prohibited

Description:

Prohibits a sitting governor or mayor from maintaining outside employment or receiving emoluments.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.



HB 71

TESTIMONY



HAWAII STATE ETHICS COMMISSION

State of Hawaii · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawaii 96813
50th ANNIVERSARY 1968-2018

Committee: Committee on Labor & Public Employment
Bill Number: H.B. 71
Hearing Date/Time: February 8, 2018, 10:30 a.m.
Re: Testimony of the Hawaii State Ethics Commission **SUPPORTING**
THE INTENT of H.B. 71, Relating to Ethics

Dear Chair Johanson and Committee Members:

The Hawaii State Ethics Commission (“Commission”) supports the intent of H.B. 71 as it relates to the governor. The Commission does not have jurisdiction over county officials, such that the Commission takes no position regarding the heads of state of each county.

As an initial matter, the Commission notes that Hawaii’s fair treatment law, Hawaii Revised Statutes (“HRS”) § 84-13, already prohibits a governor from receiving a stipend or honorarium for doing work (for example, giving speeches) in his/her capacity as governor. Furthermore, Hawaii’s financial disclosure law, HRS § 84-17, already requires the governor to file a disclosure of financial interests every year. The Commission also notes that the governor is already prohibited from holding “any other office or employment of profit under the State or the United States” while in office. Hawaii Const. Art. V, section 1.

The Commission supports legislation to help avoid conflicts of interest, but respectfully requests that, if this Committee advances H.B. 71, the Committee clarify the scope of this measure. As currently drafted, H.B. 71 appears to prohibit any outside employment, investment, rental income, and so on, with the exception of retirement accounts. As currently written, this measure appears to bar any income other than a governor’s salary and retirement-related income. Consequently, this measure would seem to prohibit a governor from owning mutual funds or stocks (other than in an IRA or 401K program), thus prohibiting a sitting governor from having a 529 college savings plan for the governor’s child(ren); it would likewise prohibit the governor from owning and renting out real estate, and would therefore prohibit a governor from renting out her/his home while residing in the governor’s mansion. This measure also does not provide an incoming governor with a grace period to sell off assets, other than the short time (roughly three weeks) between an election and inauguration. Furthermore, this measure does not appear to allow the governor to place assets in a blind trust. The Commission does not presently take any position on whether there ought to be exceptions for any of these scenarios; instead, the Commission respectfully requests that the Legislature provide clear direction to the Commission so that it may best effectuate the Legislature’s intent.

Finally, although the Commission takes no position as to this measure's applicability to the counties, the Commission notes that the measure currently places the restriction on mayors in HRS chapter 84, the State Ethics Code. As such, the measure appears to give the State Ethics Commission jurisdiction to enforce violations of this provision against county mayors. The measure also appears to make county mayors subject to state-level fines and procedures for violations. The Committee may wish to consider whether the county ethics commissions, rather than the Hawaii State Ethics Commission, should have jurisdiction to enforce these provisions. See Hawaii Const., article XIV.

The Commission supports the Legislature's efforts to strengthen Hawaii's conflict of interest laws. These types of measures help to ensure that state officials focus on serving the people of Hawaii with the utmost integrity.

Thank you for considering the Commission's testimony on H.B. 71.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel



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HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Thursday, February 8, 2018, 10:30 AM, Conference Room 309
HB 71, Relating to Ethics

TESTIMONY

Piilani Kaopuiki, Legislative Committee, League of Women Voters of Hawaii

Chair Johanson, Vice-Chair Holt and Committee Members:

The League of Women Voters of Hawaii supports HB 71 that prohibits a sitting governor or mayor from maintaining outside employment or receiving emoluments.

A sitting governor or mayor's first loyalty should be to the citizens of their jurisdiction. This bill removes a mechanism for temptation and opportunity for corruption of the two highest officials in state and city government. Experience has shown corruption may occur and that it is the role of the people to insist that rules are in place to discourage this. It is also important to avoid the perception of corruption when it does not exist to maintain integrity of the offices. This bill would clearly define the limits to employment and receiving emoluments.

Thank you for the opportunity to submit testimony.

HB-71

Submitted on: 2/5/2018 5:33:43 PM

Testimony for LAB on 2/8/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez		Support	No

Comments:

HB 71

**LATE
TESTIMONY**