



---

## HAWAII STATE ETHICS COMMISSION

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

Committee: Committee on Ways and Means  
Bill Number: S.B. 2231 SD1, Relating to Financial Disclosure  
Hearing Date/Time: February 14, 2018, 10:00 a.m.  
Re: Testimony of the Hawaii State Ethics Commission with **COMMENTS**

Dear Chair Dela Cruz and Committee Members:

The Hawaii State Ethics Commission (“Commission”) hereby submits comments on S.B. 2231 SD1, which amends the financial disclosure law to set the maximum penalty for unpaid board and commission members – other than certain high-profile boards and commissions whose disclosures are public – at \$75.

The Commission recognizes the difficulty in finding the right balance on this issue. On the one hand, to promote transparency and accountability in government, article XIV of the Hawaii Constitution requires that all board and commission members who wield “significant discretionary or fiscal powers” file financial disclosure statements. At present, roughly 800 volunteer board and commission members are required to file confidential financial disclosure statements.<sup>1</sup> On the other hand, hundreds of state officials volunteer their time and expertise to the State and may feel discouraged when they incur financial penalties resulting from their volunteer service. The threat of financial penalties may impede the State’s ability to recruit (and maintain) qualified board and commission members.

Unfortunately, the Commission’s experience is that some individuals will not comply with the financial disclosure filing requirement without the threat of a penalty for failure to comply. The Commission’s staff spends a significant amount of time and resources cajoling filers to submit their disclosure statements on time, including multiple reminder messages prior to filing deadlines. For better or worse, the financial penalties (or threat thereof) are generally effective at getting recalcitrant state officials to comply with their obligations under the financial

---

<sup>1</sup> Roughly 300 state officials are required to file public financial disclosure statements, including high-profile volunteer board and commissions like the Board of Regents, Board of Education, and Ethics Commission. Approximately 800-900 state employees are also required to file confidential financial disclosures, including all deputy attorneys general, all hearings officers, and agency procurement officers. As currently written, S.B. 2231 would apply only to the roughly 800 volunteer board and commission members – serving on more than 100 boards and commissions – who file confidential disclosure statements. This include such boards and commissions as the Real Estate Commission, the Island Burial Councils, the Commission on the Status of Women, the Civil Rights Commission, the Campaign Spending Commission, the Boxing Commission, the Board of Pharmacy, the Pest Control Board, and the Board of Public Accountancy.

disclosure law.<sup>2</sup> Indeed, for exactly this reason, the Legislature amended the Ethics Code in 1997 to include financial penalties for financial disclosures: a \$50 fine plus a fine of \$10/day for each day the disclosure remains unfiled after the state official is notified of the late filing by the Ethics Commission.<sup>3</sup> The House Judiciary Committee explained the rationale succinctly: “Your Committee finds that the State Ethics Commission has experienced many late filings of the financial disclosure statements that are required to be filed by legislators and appointed officials[.]” Hse. Stand. Comm. Rep. No. 112, in 1997 House Journal, at 1160.

On a brighter note, the Commission has just launched its electronic filing system for financial disclosure statements, and is hopeful that this new system – which includes automatic electronic reminders of upcoming deadlines – will help ease compliance with the law and reduce the incidence of penalties.

The Commission does not have a position on whether the threat of a single \$75 fine will be any less effective at ensuring compliance with HRS § 84-17 than the threat of an accruing \$10/day penalty. The Commission does, however, support the inclusion of a sunset clause in this measure.

The Commission also respectfully suggests that the bill be amended to remove the reference to subsection (8) on page 2, line 12, so that members of the Board of Regents and Board of Education will be treated the same as other public boards and commissions.

Thank you for your continuing support of the Commission’s work and for considering the Commission’s testimony on S.B. 2231 SD1.

Very truly yours,

Daniel Gluck  
Executive Director and General Counsel

---

<sup>2</sup> All financial penalties collected pursuant to the Ethics Code are deposited in the General Fund, such that the Commission has no financial incentive to impose or collect penalties.

<sup>3</sup> This structure remains in place today, except that the late-filing fee was increased in 2017 from \$50 to \$75. Act 52 of 2017.



Senate Committee on Way and Means  
Chair Donovan Dela Cruz, Vice Chair Gilbert Keith-Agaran

02/14/2018 10:00 AM Room 211  
SB2231 SD1 – Relating to Financial Disclosure

TESTIMONY / OPPOSE  
Corie Tanida, Executive Director, Common Cause Hawaii

---

Dear Chair Dela Cruz, Vice Chair Keith-Agaran, and members of the committee:

**Common Cause Hawaii opposes SB2231 SD1** which would exempt unpaid board or commission members from the daily late disclosure filing fee.

This bill could make it more difficult for the Ethics Commission to enforce the law and ensure compliance. Although most disclosures of unpaid board or commission members are not public, it is still important for the disclosures to be filed in a timely manner for review by the Ethics Commission. While it is true late filers would still be assessed the \$75 administrative fine, there would be no incentive to file the disclosure in a timely manner. This bill would undermine the Ethics Commission's authority and could lead to weeks or even months of unnecessary delay of noncompliance.

We urge you to you **defer SB2231 SD1**.

Thank you for the opportunity to offer testimony **opposing SB2231 SD1**.