

SB 2231

SD-2

**RELATING TO
FINANCIAL
DISCLOSURE**

A BILL FOR AN ACT

RELATING TO FINANCIAL DISCLOSURE.

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

1 SECTION 1. The purpose of this Act is to reduce the
2 maximum financial penalty applicable to unpaid board and
3 commission members who fail to file timely financial disclosure
4 statements.

5 SECTION 2. Section 84-17, Hawaii Revised Statutes, is
6 amended by amending subsection (i) to read as follows:

7 "(i) Failure of a legislator, a delegate to the
8 constitutional convention, or employee to file a disclosure of
9 financial interests as required by this section shall be a
10 violation of this chapter. Any legislator, delegate to a
11 constitutional convention, or employee who fails to file a
12 disclosure of financial interests when due shall be assessed an
13 administrative fine of \$75. The state ethics commission, upon
14 the expiration of the time allowed for filing, may post on its
15 website for public inspection a list of all persons who have
16 failed to file financial disclosure statements. The state
17 ethics commission shall notify a person, by in-person service,



1 electronic mail to the person's state electronic mail address,
2 or first class mail, of the failure to file, and the disclosure
3 of financial interests shall be submitted to the state ethics
4 commission not later than 4:30 p.m. on the tenth day after
5 notification of the failure to file has been mailed to the
6 person. If a disclosure of financial interests has not been
7 filed within ten days of the due date, an additional
8 administrative fine of \$10 for each day a disclosure remains
9 unfiled shall be added to the administrative fine[-]; provided
10 that the additional \$10 per day fine shall not be assessed
11 against unpaid members of any board or commission. All
12 administrative fines collected under this section shall be
13 deposited in the State's general fund. Any administrative fine
14 for late filing shall be in addition to any other action the
15 state ethics commission may take under this chapter for
16 violations of the state ethics code. The state ethics
17 commission may waive any administrative fines assessed under
18 this subsection for good cause shown."

19 SECTION 3. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 4. This Act, upon its approval, shall take effect
2 retroactive to January 1, 2018, and shall be repealed on
3 June 30, 2022; provided that section 84-17, Hawaii Revised
4 Statutes, shall be reenacted in the form in which it read prior
5 to the effective date of this Act.



Report Title:

Financial Disclosure; Fines; Unpaid Board or Commission Members

Description:

Reduces the maximum penalty for certain unpaid board or commission members whose financial disclosure statements are not filed timely. (SD2)

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



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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: S.B. 2231 SD2, Relating to Financial Disclosure
Hearing Date/Time: March 15, 2018, 9:00 a.m.
Re: Testimony of the Hawaii State Ethics Commission with **COMMENTS**

Dear Chair Johanson and Committee Members:

The Hawaii State Ethics Commission (“Commission”) hereby submits comments on S.B. 2231 SD2, which amends the financial disclosure law to set the maximum penalty for unpaid board and commission members 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.¹ 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 disclosure law.² Indeed, for exactly this reason, the Legislature amended the Ethics Code in

¹ 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 SD2 would apply to all volunteer board and commission members – serving on more than 100 boards and commissions – including those like the Board of Regents and Board of Education who file public financial disclosure statements.

² 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.

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.³ 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.

Thank you for your continuing support of the Commission’s work and for considering the Commission’s testimony on S.B. 2231 SD2.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel

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



House Committee on Labor and Public Employment
Chair Aaron Johanson, Vice Chair Daniel Holt

03/15/2018 9:00 AM Room 309
SB2231 SD2 – Relating to Financial Disclosure

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

Dear Chair Johanson, Vice Chair Holt, and members of the committee:

Common Cause Hawaii opposes SB2231 SD2 which would exempt unpaid board or commission members from the daily late disclosure filing fee.

This bill would make it more difficult for the Ethics Commission to enforce the law and ensure compliance. As written, the SD2 version provides a blanket exemption from the daily late fee for all boards and commissions. This includes boards and commissions who wield “significant discretionary or fiscal powers”¹, such as the BLNR, HCDA, and PUC, whose disclosures are public. The public expects transparency and accountability in government, especially for officials who are not elected into office.

This bill would undermine the Ethics Commission’s authority, lead to weeks or even months of unnecessary delays of noncompliance, decrease public access to information and in turn erode the public’s confidence in government.

We urge you to you **defer SB2231 SD2**.

Thank you for the opportunity to offer testimony **opposing SB2231 SD2**.

¹ <http://lrbhawaii.org/con/conart14.html>

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TESTIMONY