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## 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 Judiciary  
Bill Number: S.B. 2610 SD1 HD1  
Hearing Date/Time: April 4, 2018, 2:00 p.m.  
Re: Testimony of the Hawaii State Ethics Commission **SUPPORTING THE INTENT** of S.B. 2610, Relating to State Employees

Dear Chair Nishimoto and Committee Members:

The Hawaii State Ethics Commission (“Commission”) supports the intent of S.B. 2610 SD1 HD1, which clarifies that interns are bound by the Ethics Code, Hawaii Revised Statutes (“HRS”) chapter 84.

The Commission’s current practice is to apply the Ethics Code to interns who effectively function as state employees. In Advisory Opinion No. 2006-1,<sup>1</sup> the Commission determined that legislative interns, who are appointed to perform state duties at the legislature, are “employees” and therefore subject to the provisions of the Ethics Code. The Commission believes that interns should generally be treated as state employees (and, therefore, should be bound by the same ethical requirements) when they perform state functions and are in a position to influence state action. The Commission supports the codification of that rule.

The HD1 includes references to unspecified numbers of hours and days. Should the Committee decide to move forward with this measure, it may wish to consider whether “intern” includes only those individuals who work for the state full-time, or whether it includes all individuals regardless of the number of hours worked. Additionally, the Committee may wish to consider whether interns will be bound by the Post-Employment Law, HRS § 84-18,<sup>2</sup> if their

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<sup>1</sup> Available at <http://files.hawaii.gov/ethics/advice/AO2006-1.pdf>.

<sup>2</sup> HRS § 84-18(c) states:

(c) No former employee, within twelve months after termination of the former employee’s employment, shall represent any person or business for a fee or other consideration, on matters in which the former employee participated as an employee or on matters involving official action by the particular state agency or subdivision thereof with which the former employee had actually served. This section shall not apply to a former task force member who, but for service as a task force member, would not be considered an employee.

internship lasts more than 180 days (and, relatedly, whether the Contracts Law, HRS § 84-15,<sup>3</sup> applies to former interns).

The Commission supports the idea of ensuring that interns abide by the high ethical standards required by the Ethics Code, particularly for those interns who work full-time in the legislature or an administrative agency and who would appear to an outsider to be a full-time employee. The Commission is ready and able to administer and enforce this new provision, but respectfully requests additional clarification to best effectuate the Legislature's intent.

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on S.B. 2610 SD1 HD1.

Very truly yours,

Daniel Gluck  
Executive Director and General Counsel

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HRS § 84-18(e) provides that this "section shall not apply to any person who is employed by the State for a period of less than one hundred and eighty days."

<sup>3</sup> HRS § 84-15(a) provides:

- (a) A state agency shall not enter into any contract to procure or dispose of goods or services, or for construction, with a legislator, an employee, or a business in which a legislator or an employee has a controlling interest, involving services or property of a value in excess of \$10,000 unless:
- (1) The contract is awarded by competitive sealed bidding pursuant to section 103D-302;
  - (2) The contract is awarded by competitive sealed proposal pursuant to section 103D-303; or
  - (3) The agency posts a notice of its intent to award the contract and files a copy of the notice with the state ethics commission at least ten days before the contract is awarded.



# UNIVERSITY OF HAWAII SYSTEM

## Legislative Testimony

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Testimony Presented Before the  
House Committee on Judiciary  
April 4, 2018 at 2:00 p.m.

By  
Donald O. Straney  
Vice President for Academic Planning and Policy  
University of Hawai'i System

### SB 2610 SD1 HD1 – RELATING TO STATE EMPLOYEES

Chair Nishimoto, Vice Chair San Buenaventura, and members of the committee:

Thank you for the opportunity to comment on SB 2610 SD1 HD1 that adds a definition of interns to the State Ethics Code to include those who perform unpaid service as part of an internship program established by a private or public post-secondary educational institution.

While the University of Hawai'i (UH) supports the intent of this measure to apply the Ethics Code to interns who function as state employees, as the State of Hawai'i Ethics Commission did in its testimony on SB 2610, we respectfully request clarification of the definition of and type of "intern" intended to be covered in this bill.

For example, is a student that is working part-time as part of his/her financial aid package or in exchange for credit included in this definition? Is that part-time student, if interning for longer than 180 days, bound by the provisions of Sections 84-15 (contracts)<sup>1</sup> and 84-18 (post-employment)<sup>2</sup> of the Hawaii Revised Statutes? And are

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<sup>1</sup> **§84-15 Contracts.** (a) A state agency shall not enter into any contract to procure or dispose of goods or services, or for construction, with a legislator, an employee, or a business in which a legislator or an employee has a controlling interest, involving services or property of a value in excess of \$10,000 unless:

- (1) The contract is awarded by competitive sealed bidding pursuant to section 103D-302;
- (2) The contract is awarded by competitive sealed proposal pursuant to section 103D-303; or
- (3) The agency posts a notice of its intent to award the contract and files a copy of the notice with the state ethics commission at least ten days before the contract is awarded.

<sup>2</sup> **§84-18 states in relevant part:**

(c) No former employee, within twelve months after termination of the former employee's employment, shall represent any person or business for a fee or other consideration, on matters in which the former employee participated as an

University students who participate in internships at the University or State agencies as part of educational programs or courses intended to be covered by these same sections of the Ethics Code?

Consistent with the intent of this bill, we would respectfully request that a meaningful delineation be made between part-time and full-time interns, and that an exception be made for students participating in internships as part of educational programs or courses, in the section that pertains to post-secondary educational institutions (Page 1, lines 5-9), such that the provision would read:

(1) Any person who performs unpaid services for the State for 40 or more hours per week as part of an internship program established by a private or public secondary or post-secondary educational institution, provided that "person" shall not include University of Hawaii students participating in internships required as part of educational programs or courses;

This delineation would clarify that part-time interns and those University students participating in unpaid internships as part of their coursework are not subject to the same post-employment and contracting restrictions as full-time employees just by nature of participation in course-required internships.

Thank you very much for the opportunity to provide testimony.

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employee or on matters involving official action by the particular state agency or subdivision thereof with which the former employee had actually served. This section shall not apply to a former task force member who, but for service as a task force member, would not be considered an employee.

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(e) This section shall not apply to any person who is employed by the State for a period of less than one hundred and eighty-one days.

**LATE**

**SB-2610-HD-1**

Submitted on: 4/4/2018 2:17:14 AM

Testimony for JUD on 4/4/2018 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Marcella Alohalani Boido	Individual	Support	No

Comments:

To all:

Both as a former intern, and as a teacher and supervisor of interns in a variety of programs, I like this bill.

As a matter of fact, one of the members of this Committee was at one time an intern in a program where I was a teacher. Hello to one of my best students...you know who you are.

it would be healthy for internship programs to know that their students are covered by the ethics code.

Please pass this bill.

Thank you.

Marcella Alohalani Boido, M. A.

Honolulu, Hawaii 96826