

SB2748

Measure Title: RELATING TO CHARITABLE ORGANIZATIONS.

Report Title: Charitable Organizations

Description:

Amends chapter 467B, Hawaii Revised Statutes, to substitute the term "total revenue" in place of "gross revenue", clarify when professional solicitors must file financial reports, clarify when commercial co-venturers must provide a charitable organization with an accounting and the benefit, eliminate the requirement for certain charitable organizations to submit an audit report, and make other housekeeping amendments.

Companion: [HB2321](#)

Package: Governor

Current Referral: CPH, WAM

Introducer(s): KOUCHI (Introduced by request of another party)



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

ON THE FOLLOWING MEASURE:

S.B. NO. 2748, RELATING TO CHARITABLE ORGANIZATIONS.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Friday, February 02, 2018

TIME: 9:30 a.m.

LOCATION: State Capitol, Room 229

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

Chair Baker 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."



***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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Susan H. Oshiro

February 2, 2018 at 9:00am

Conference Room 229

Senate Committee on Commerce, Consumer Protection, and Health

To: Senator Rosalyn H. Baker, Chair
Senator Jill N. Tokuda, Vice Chair

From: Cathy Alsup, CFRE
President

RE: SB 2748 – 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 SB 2748 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.

SB 2748 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 SB 2748. 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 Rosalyn Baker, Chair
The Honorable Jill Tokuda, Vice Chair
Senate Committee on Commerce, Consumer Protection and Health

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

RE: SB 2748 - RELATING TO CHARITABLE ORGANIZATIONS
In Support with amendments

DATE: Friday, February 2, 2018
9:00 am, Conference Room 229

Aloha Chair Baker, Vice Chair Tokuda, 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 SB 2748 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 Rosalyn Baker, Chair
The Honorable Jill Tokuda, Vice Chair
Senate Committee on Commerce, Consumer Protection and Health

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

RE: SB 2748 - RELATING TO CHARITABLE ORGANIZATIONS
In Support with amendments

DATE: Friday, February 2, 2018
9:00 am, Conference Room 229

Aloha Chair Baker, Vice Chair Tokuda, 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 SB 2748 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 SB 2748 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.



Testimony to the Senate Commerce, Consumer Protection and Health Committee

**Senator Roslyn Baker, Chair
Senator Jill Tokuda, Vice Chair
Friday, February 2, 9:00 a.m.
Conference Room 229**

SB 2748 - Relating to Charitable Organizations

Dear Chair Baker and Vice Chair Tokuda, and members of the CPH Committee:

On behalf of the Hawai`i Alliance of Nonprofit Organizations, I would like express **support of SB 2748**, relating to charitable organizations.

Hawai`i Alliance of Nonprofit Organizations (HANO) is a statewide, sector-wide professional association of nonprofits. Our mission is to unite and strengthen the nonprofit sector as a collective force to improve the quality of life in Hawai`i. Our member organizations provide essential services to every community in the state.

HANO supports all changes being made in this bill including changing “gross revenue” to “total revenue,” clarifying when professional solicitors must file financial reports, clarifying when commercial co-venturers must provide the charitable organization with an accounting and the benefit, and eliminating the need for charitable organizations to provide an audit report.

Thank you for the opportunity to provide written testimony in support of these changes.

Mahalo,
Lisa Maruyama
President & CEO