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STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

235 SOUTH BERETANIA STREET, ROOM 300
HONOLULU, HAWAII 96813

February 20, 2019

TO: The Honorable Sylvia Luke, Chair
House Committee on Finance

The Honorable Ty J.K. Cullen, Vice Chair
House Committee on Finance

Members of the House Committee on Finance

FROM: Kristin Izumi-Nitao, Executive Director *KIN*
Campaign Spending Commission

SUBJECT: **Testimony on H.B. No. 1490, H.D. 1, Relating to Campaign Finance**

Thursday, February 21, 2019
1:30 p.m., Conference Room 308

Thank you for the opportunity to testify on this bill. The Campaign Spending Commission ("Commission") supports this bill.

This bill amends Hawaii Revised Statutes ("HRS") §11-355 to prohibit officers and board members of state and county contractors for the duration of the government contract with the State, its counties, or any department or agency from directly or indirectly making, or knowingly soliciting, any contributions to a candidate or noncandidate committee. This measure also expands the types of contracts to goods and utilities.



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COMMITTEE ON FINANCE

THURSDAY, 2/21/19, 1:30 PM, Room 308
HB1490 HD1, RELATING TO CAMPAIGN FINANCE

TESTIMONY

Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair LUKE, Vice-Chair CULLEN, and Committee Members:

The League of Women Voters of Hawaii **strongly supports HB1490 HD1 that extends prohibition of contributions by government contractors etc. to contributions by their sole proprietors, officers and Boards.**

The League of Women Voters believes that political corruption includes the following:

- A candidate or officeholder agrees to vote or work in favor of a donor's interests in exchange for a campaign contribution.
- An officeholder or staff gives greater access to donors.
- An officeholder votes or works to support policies that reflect the preferences of individuals or organizations in order to attract contributions from them.
- A candidate or office holder seeks political contributions implying that there will be retribution unless a donation is given.
- The results of the political process consistently favor the interests of significant campaign contributors.

Hawaii's campaign finance law already prohibits contributions to election campaigns by contractors, suppliers, etc. under contract to state or county governmental agencies. But as is easily seen in summaries of election campaign contributions, the owners, executives, and Board members of contractors, suppliers, etc. continue to make contributions which are easily attributed to their roles vis a vis the companies which are receiving government funds. Such contributions create the appearance if not the actuality of "pay to play", thus eroding trust in government, and can create conflicts of interest for the government officials who evaluate bids for contracts, supplies etc. Hawaii's media have reported on several such relationships between campaign contributions and the receipt of government contracts.

HB1490 HD1 will prevent these currently legal contributions and will be an important step in restoring faith in state and county government.



Hawaii

Holding Power Accountable

Common Cause Hawaii • 307A Kamani St. • Honolulu, HI 96813 • 808.275.6275

To: The House Committee on Finance
From: Brodie Lockard for the Common Cause Hawaii Board
Date: Thursday, February 21, 2019, 1:30 pm

In support of HB 1490

Dear FIN Chair Luke, Vice Chair Cullen and Committee Members—

Common Cause Hawaii supports HB 1490. It should cost the State nothing.

This bill will cover many transactions that could lead to corruption or the perception of it. Its language should protect the public from all manner of possible abuses by special interests with deep pockets.

Please pass HB 1490 to protect our democracy from the undue influence of those providing goods, utilities, or services to the State, and their officers and board members.

Thank you for the opportunity to testify.

Brodie Lockard
Board Member, Common Cause Hawaii

Presentation to The
Committee on Finance
February 21, 2019 at 1:30 P.M.
State Capitol Conference Room 308

Testimony in Opposition to House Bill 1490, HD 1

TO: The Honorable Sylvia Luke, Chair, Committee on Finance
The Honorable Ty J.K. Cullen, Vice Chair Committee on Finance
Members of the Committee

My name is Neal K. Okabayashi, the Executive Director of the Hawaii Bankers Association (HBA). HBA is the trade association representing banks with branches in Hawaii.

HB 1490, HD 1, will expand the prohibition on contributions from state and county contractors to include officers and board members of the contractor.

HBA's objection to this bill is that it is too expansive in its reach because it does more than prohibit a corporation from contributing but expands the prohibition to individuals who are officers of the corporation or are board members of a corporation and prohibit them from exercising their constitutional rights under the First Amendment of the Bill of Rights. See the seminal case on campaign finance: Buckley v. Valeo, 424 U.S. 1 (1976).

One may think that a corporation may only have a few officers and board members but that is not true for the many corporations. In fact, if this bill passed, an officer of the corporation may not even know he or she is subject to the prohibition.

Under federal law, corporations may not contribute from its treasury but officers may contribute through a separate segregated fund (commonly called a PAC) or directly as an individual. The Buckley case essentially ruled that contribution prohibitions were unconstitutional but contribution limits and reporting and disclosure requirements were permissible. By seeking to prohibit individuals who merely happen to be officers or board members of a contractor corporation from exercising that individual's constitutional right raises serious constitutional issues.

In Hawaii, the candidate committee must disclose the contributor by name if the contribution exceeds \$100.00 and if the contribution exceeds \$1,000.00, the individual's occupation and employer must be disclosed.

Hawaii has a robust system of disclosures by contributors, including individuals, and because the Campaign Spending Commission website includes the campaign spending reports by candidate committees, it allows interested parties to peruse the reports to ascertain contributors.

The annual reports of the Campaign Spending Commission dating back to 2007 reveals no material issues on campaign contributions by individuals but rather only by candidate committees. Thus, besides the constitutional issue, there is no showing that a prohibition on individuals is needed.

Thank you for the opportunity to submit this testimony on HB 1490, HD 1 and for the reasons set forth herein, we oppose this bill. Please let us know if we can provide further information.

Neal K. Okabayashi
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