

HB945 HD1

Measure Title:	RELATING TO CHARITABLE ORGANIZATIONS.
Report Title:	Charitable Organizations
Description:	Clarifies requirements for submission of financial reports by professional solicitors and commercial co-venturers that raise funds for a charitable organization. Eliminates audit report requirements for charitable organizations not otherwise subject to audit requirements. Conforms language to that used by the Internal Revenue Service and other statutes. (HB945 HD1)
Companion:	SB1172
Package:	Governor
Current Referral:	CPH, JDC
Introducer(s):	SAIKI (Introduced by request of another party)



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTIETH LEGISLATURE, 2019**

ON THE FOLLOWING MEASURE:

H.B. NO. 945, H.D. 1, RELATING TO CHARITABLE ORGANIZATIONS.

BEFORE THE:

SENATE COMMITTEE ON COMMERCE, CONSUMER PROTECTION, AND HEALTH

DATE: Tuesday, March 12, 2019

TIME: 9:00 a.m.

LOCATION: State Capitol, Room 229

TESTIFIER(S): Clare E. Connors, Attorney General, or
Patrick K. Kelly, Deputy Attorney General

Chair Baker and Members of the Committee:

The Department of the Attorney General (Department) supports this bill. This bill amends Hawaii's charitable solicitation and registration law, chapter 467B, Hawaii Revised Statutes (HRS).

Specifically, this bill will: (1) clarify that the annual filing fees are based on the term "total revenue" as shown and calculated on the Internal Revenue Service (IRS) Form 990; (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 for promotions lasting more than one year, within ninety days of the anniversary of the promotion; (4) protect audited financial statements from public disclosure for all charitable organizations, not just charities; and (5) make other housekeeping amendments. H.D. 1 removed a requirement for submitting an audit report for charitable organizations that receive more than \$500,000.00 in contributions and changed the effective date to July 1, 2050, to promote further discussion.

This bill will assist the Department in 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 an effective date of upon its approval.



UNIVERSITY of HAWAII'
FOUNDATION

**TESTIMONY OF THE UNIVERSITY OF HAWAII FOUNDATION
ON HOUSE BILL NO. 945, H.D. 1., RELATING TO CHARITABLE ORGANIZATIONS**

March 12, 2019

Committee: Commerce, Consumer Protection & Health
Time: 9:00 a.m.
Location: Room 229, State Capitol
Testifier Hugh R. Jones, In-House Counsel (956-6378)
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Chairperson Baker, Vice Chair Chang and Committee Members:

The University of Hawaii Foundation (“UHF”), a private, nonprofit charitable corporation, supports the passage of this bill that would clarify provisions of Hawaii’s charitable solicitation law, chapter 467B, HRS.

This bill will make clarifying amendments to Hawaii’s charitable solicitation law. 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

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financial report after the end of the campaign, and (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, nonprofit corporation's law to clarify the role of non-voting directors of nonprofit corporations. UHF, like many Hawaii nonprofits have non-voting directors, or trustees on its board of directors, and this bill would provide greater clarity on this point. These amendments will benefit, and protect the nonprofit sector as well as UHF.

UHF also supports the amendment made in House Draft 1, that would repeal the requirement of an audited financial statement for registered charities, unless the charity is already required to have an audit due to an externally imposed requirement.

The Department of the Attorney General supported the repeal of this language last year. The cost of auditing financial statements has increased significantly, and almost all of a registered charity's financial and operational data is reported on IRS Form 990 and filed with the Department of the Attorney General and available for public inspection online. Moreover, "financial" audits don't usually discuss weaknesses in an organization's accounting systems or internal controls—such matters are usually discussed in a "management letter" sent by the auditor to management.

UHF requests the Committee's favorable consideration of this bill.

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Testimony to the Senate Committee on Commerce, Consumer Protection and Health
Senator Rosalyn Baker, Chair
Senator Stanley Chang, Vice Chair
Tuesday, March 12, 2019, 9:00 a.m.
Conference Room 229
HB 945, HD 1 - Relating to Charitable Organizations

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

On behalf of the Hawai'i Alliance of Nonprofit Organizations, I would like express **support of HB 945, HD 1**, 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," to conform with the Internal Revenue Service Form 990; clarifying when professional solicitors must file financial reports; and clarifying when commercial co-venturers must provide the charitable organization with an accounting and the benefit.

Additionally, we support the provision to allow charitable organizations to submit financial audits only when it is already required of them by other external entities (i.e. accrediting bodies, government contracts).

Professional audits can be very expensive, especially for organizations that *just* meet the current requirement of having contributions in excess of \$500,000 in a year.

Consequently we support omitting this financial threshold from the law. Thank you for the opportunity to submit testimony.

Mahalo,
Lisa Maruyama, President and CEO