



HAWAI'I STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i 96813

Committee: Committee on Labor
Bill Number: H.B. 2124
Hearing Date/Time: February 6, 2020, 9:10 a.m.
Re: Testimony of the Hawai'i State Ethics Commission in **SUPPORT**
of H.B. 2124, Relating to the Code of Ethics

Dear Chair Johanson, Vice Chair Eli, and Committee Members:

The Hawai'i State Ethics Commission ("Commission") supports H.B. 2124, which seeks to promote integrity in government by strengthening the wall of separation between lobbyists and high-ranking government officials. As discussed more fully below, the Commission also proposes an amendment.

Currently, under Hawaii's post-employment law, Hawai'i Revised Statutes ("HRS") § 84-18, government officials are generally prohibited from representing others, for pay, before their own agencies for twelve months. However, government officials are generally not subject to any cooling-off period before they may be paid to represent private clients before other state agencies.¹ For example, a department director who appears regularly before the Legislature can leave government service and immediately begin lobbying the Legislature for pay; similarly, a legislator can immediately leave office and begin lobbying executive-branch agencies regarding proposed administrative rules.²

This measure would create a twelve-month cooling-off period for certain high-ranking government officials (and permanent employees of the Legislature, other than those employed in

¹ The post-employment law does prohibit a former legislator/employee from representing a private client before any state agency (for twelve months), for pay, on the same matters in which the legislator/employee participated while serving as legislator/employee. Additionally, the contracts law, HRS § 84-15(b), restricts the extent to which former employees can assist private entities in seeking contracts with the State, when the former employee worked on the same contract matter while employed by the State.

² Except as provided in footnote 1: for twelve months, the former director or legislator in these examples could not lobby, for pay, on any matters that the director/legislator worked on while a director/legislator, see HRS § 84-18. Similarly, if an employee works on a contract while at the State, then leaves her state position and goes to work for a private company, the former employee cannot assist the private company in applying for that same contract for two years; if the former employee does so during the two-year cooling-off period, the State is prohibited from entering into the contract with the private company. See HRS § 84-15(b).

clerical positions), before those former employees could lobby the Legislature for pay.³ This prohibition would help to create clearer boundaries between government and private-sector lobbyists.

There is certainly room for discussion as to which positions ought to be included on, or excluded from, this list. For example, the Committee may wish to include the Executive Director of the Ethics Commission and/or its Commissioners, and/or the Committee may wish to exclude some of the positions on this list. The Senate Government Operations Committee, in hearing a similar bill in the Senate ([S.B. 2114](#)), indicated that the list of positions subject to this additional post-employment restriction should mirror the list of positions required to file public financial disclosure statements (see HRS § 84-17(d)) in the S.D.1, which has not yet been released; this is a reasonable approach to determine which positions should be included. Overall, however, the Commission strongly supports this measure and respectfully asks for its passage.

Proposed amendments:

First, the Commission respectfully recommends that the Committee make clear – perhaps in the Committee report – that the new provisions of HRS § 84-18(e) are in addition to the restrictions contained in subsections (a) through (d).

Second, the Commission notes that the post-employment law currently applies only to those individuals who leave state employment after being employed by the State for 181 days or more. HRS § 84-18(e). While this is a reasonable provision for most of the post-employment restrictions, the Commission believes that the 181-day grace period should not apply to HRS § 84-18(a), which requires former employees to maintain the confidentiality of information acquired while working for the State; instead, state officials should be required to maintain the confidentiality of information obtained in the course of their state duties, even if – like legislative session hires – they are employed by the State for fewer than 181 days. As such, the Commission respectfully recommends that HRS § 84-18(e) – to be re-numbered as HRS § 84-18(f) – be amended to apply only to subsections (b), (c), (d), and (e).

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on H.B. 2124.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel

³ This measure will also prohibit lobbying executive agencies on administrative rule-making.

Statement Before The
HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Thursday, February 6, 2020
9:10 AM
State Capitol, Conference Room 309

in consideration of
HB 2124
RELATING TO THE CODE OF ETHICS.

Chair JOHANSON, Vice Chair ELI, and Members of the House Labor & Public Employment Committee

Common Cause Hawaii supports HB 2124, which prohibits certain state officials and employees from representing certain interests before the State for 12 months after termination from their respective positions.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to reforming government and strengthening democracy. Common Cause Hawaii works to restore faith in our government and our democracy that has been shattered in the last few years through ethics, accountability, and transparency reforms. These reforms are probably the most important tools to restoring the people's trust in their elected leaders and government – to show people that their government is acting for the people's interest versus serving their own interests.

HB 2124 is a good first step to prohibiting lobbying by former legislators and executive-branch employees through instituting a twelve (12) month "cooling-off" period at the administrative level. HB 2124 may even maintain a more distinct wall of separation between lobbyists and the State's elected officials and government employees if (i) the "cooling off" period were to be extended from twelve (12) months to twenty-four (24) months and (ii) it included, as a catchall, all executive branch employees who were employed in a position that required senate confirmation, in addition to the specific officials named in HB 2124.

Thank you for the opportunity to testify in support of HB 2124, and Common Cause Hawaii respectfully urges the Committee members to pass HB 2124 out of your Committee. If you have further questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii

HB-2124

Submitted on: 2/3/2020 6:57:25 PM

Testimony for LAB on 2/6/2020 9:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Michael Golojuch Jr	Individual	Support	No

Comments:

HB-2124

Submitted on: 2/3/2020 7:19:09 PM

Testimony for LAB on 2/6/2020 9:10:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Caroline Kunitake	Individual	Support	No

Comments:

Dear Chair Johanson and Members of the House Committee on Labor and Public Employment,

I am writing in support of HB 2124. HB 2124 prohibits certain state officials and employees from representing certain interests before the State for 12 months after termination from their respective positions.

HB 2124 is a good first step to prohibiting lobbying by former legislators and executive-branch employees through instituting a twelve (12) month “cooling-off” period at the administrative level.

Hawaii is a small place and everyone knows everyone. Therefore is it even more important to put in place respectful rules guidelines to address potential conflicts of interest.

Mahalo,

Caroline Kunitake