



**STATE OF HAWAII**  
**DEPARTMENT OF TAXATION**  
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To: The Honorable Chris Lee, Chair  
and Members of the House Committee on Judiciary

Date: Tuesday, February 5, 2019  
Time: 2:05 P.M.  
Place: Conference Room 325, State Capitol

From: Linda Chu Takayama, Director  
Department of Taxation

Re: H.B. 712, Relating to Elections

The Department of Taxation (Department) has concerns about H.B. 712 and offers the following comments for the Committee's consideration.

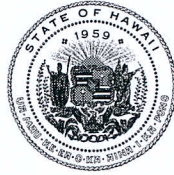
H.B. 712 would require certain candidates for office to disclose their federal tax returns to the State Office of Elections, which would make them available to the public. A summary of key provisions are as follows:

- Amends chapter 11, Hawaii Revised Statutes (HRS), by adding a new section requiring candidates for President, Vice President, Governor, Lieutenant Governor, and Mayor to disclose their federal income tax returns for the five most recent taxable years in order for their names to appear on an election ballot;
- Requires candidates to provide written consent to the Office of Elections for the public disclosure of their federal income tax return;
- Directs the Office of Elections to make the returns publicly available within seven days of submission;
- Directs the Chief Election Officer to redact information from the returns as the Director of Taxation (Director) deems appropriate;
- Amends section 14-28, HRS, to prohibit state electors from voting for candidates for President and Vice President of the United States who have not disclosed their federal income tax returns; and
- Effective upon approval.

The Department notes that the language in section 2, subsection (c) of this measure, which empowers the Director of Taxation to determine which tax return information is appropriate for the Chief Election Officer to disclose, is ambiguous. It is unclear what criteria the Legislature wishes the Director to use in making such a determination, and the inherently political nature of this measure may go beyond the Director's ordinary purview. That said, given

the public's interest in transparency, the Department would likely recommend only the redaction of all personal identifying numbers, such as Social Security Numbers (SSNs) and Federal Employee Identification Numbers (FEINs), whether belonging to the taxpayer, a payor/payee, or any other entity.

Thank you for the opportunity to provide comments.



**STATE OF HAWAII  
OFFICE OF ELECTIONS**

802 LEHUA AVENUE  
PEARL CITY, HAWAII 96782  
elections.hawaii.gov

SCOTT T. NAGO  
CHIEF ELECTION OFFICER

TESTIMONY OF THE  
CHIEF ELECTION OFFICER, OFFICE OF ELECTIONS  
TO THE HOUSE COMMITTEE ON JUDICIARY  
ON HOUSE BILL NO. 712  
RELATING TO ELECTIONS

February 5, 2019

Chair Lee and members of the House Committee on Judiciary, thank you for the opportunity to provide comments on House Bill No. 712. The purpose of this bill is to require certain executive branch candidates to disclose their federal income tax returns in order for their names to appear on the ballot, and to prohibit presidential electors from voting for candidates who have not disclosed their federal income tax returns.

While we take no position, we would ask that the deadline to file the federal tax returns with the Office of Elections be amended. As written, proposed Section 1 establishes the deadline to provide the federal tax returns no later than 50 days prior to the general election. However, we would ask that it be amended to no later than 60 days prior to the election, which coincides with the deadline for qualified political parties to submit candidates for president and vice president pursuant to HRS § 11-113(c)(1). Once candidate names are received from the political parties, we are able to proof, finalize, and print the ballot. This amendment would ensure we are able to proof and print the ballots to comply with the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA), which requires ballots be sent to covered voters 45 days prior to the election. 52 USC §20302 & HRS §15D-9.

Additionally, we would note that we do not have the ability to determine the validity of any tax returns.

Thank you for the opportunity to testify on House Bill No. 712.

**HB-712**

Submitted on: 2/1/2019 5:04:33 PM

Testimony for JUD on 2/5/2019 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Michael Golojuch Jr	LGBT Caucus of the Democratic Party of Hawaii	Support	Yes

Comments:

Aloha Representatives,

The LGBT Caucus of the Democratic Party of Hawaii supports the passage of HB 712.

Mahalo for your consideration and for the opportunity to testify.

Mahalo,

Michael Golojuch, Jr.

Chair

LGBT Caucus of the Democratic Party of Hawaii

# TAX FOUNDATION OF HAWAII

126 Queen Street, Suite 304

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: MISCELLANEOUS, Mandatory Disclosure of Income Tax Returns for Candidates

BILL NUMBER: HB 712

INTRODUCED BY: C. LEE, BROWER, ELI, KITAGAWA, LUKE, MATAYOSHI, MCKELVEY, MIZUNO, MORIKAWA, NAKAMURA, NAKASHIMA, PERRUSO, QUINLAN, SAIKI, TAKUMI, THIELEN, WILDBERGER, YAMASHITA, San Buenaventura

EXECUTIVE SUMMARY: Requires a candidate for President or Vice President of the United States, governor or lieutenant governor, or mayor of a county, to submit a copy of the candidate's individual federal income tax return as a condition of appearing on the ballot in Hawaii. Why don't we impose the same requirement for our own legislators as well as the chief executives?

SYNOPSIS: Adds a new section to HRS chapter 11 to require a candidate for President or Vice President of the United States, governor or lieutenant governor, or mayor of a county, to submit a copy of the candidate's five most recent individual federal income tax returns, and to provide written consent to the office of elections for public disclosure of the federal income tax returns. Requires public disclosure on the website of the office of elections no later than seven days after submission. Allows for redaction of information that the director of taxation deems appropriate.

EFFECTIVE DATE: Upon approval.

STAFF COMMENTS: The measure apparently is in response to President Donald Trump's refusal to release his tax returns.

"It's a reasonable step since every modern president has released their tax returns and put their assets into a blind trust to make sure the only interest they have is the interest of our country and its people," the Star-Advertiser quoted one lawmaker as saying.

In most states, including ours, tax returns and tax return information are confidential. The reason for the confidentiality is that it is generally believed that people will be more honest with the government about their finances if the people won't have to worry about collateral consequences from other folks peeking. What might happen if a nosy neighbor wants to peek? Or a business competitor? Or an opposition candidate if you are trying to run for public office? The interest in confidentiality is strong enough so that in civil litigation where parties are suing each other, parties are usually able to demand that the other side disclose any information "designed to lead to the discovery of admissible evidence," but aren't allowed to demand tax returns unless the judge thinks that there is a special need for them.

Even in Hawaii, people don't like to cough up tax returns or other sensitive financial records. Back in 2014, when a law (Act 240, Session Laws of Hawaii 2014) required that sensitive financial disclosures of many state volunteer boards and commissions be made public, Hawaii

News Now reported that at least sixteen board or commission members resigned rather than allow their financial disclosures to be released to the public. The state Land Use Commission lost five of its nine members (56%), the board of the Agribusiness Development Corporation lost four of 11 (45%), the University of Hawaii Board of Regents lost four of its 15 (27%), and the board of the Hawaii Housing Finance and Development Corporation lost two of eight (25%).

We need to ask ourselves what price is necessary to have a participatory role in government. If we want to have those with relevant experience and backgrounds to serve the public interest, do we need to have them bare all their financial information? In this digital age, potential office holders may well ask what consequences they or their family will suffer at the hands of those who may have a different political agenda once this information is irrevocably exposed. Some won't want to take the heat and will get out of the proverbial water, leaving our country to be run by whoever is left.

Is there any logical reason to mandate disclosure just for chief executive offices? Shouldn't we be taking care of our own back yard and imposing this requirement for State legislators as well?

Digested 2/4/2019

**HB-712**

Submitted on: 2/3/2019 11:49:31 PM

Testimony for JUD on 2/5/2019 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mary Smart	Individual	Oppose	No

Comments:

Vote NO on this bill. This is a complete invasion of privacy. Many candidates file jointly with their spouse who is not a candidate. It is sufficient that candidates file with the Ethics Board. That report delves into investments, real estate and other income. The data provided to the Ethics Board is sufficiently intrusive. It is the IRS's business to audit people's returns, not the general public. There is a limit to "transparency" that is needed to be a political candidate. People are already discouraged from running for elected office. We don't need yet another reason to be a passive citizen, sitting on the sidelines, never participating in the public square. Do not pass HB 712.

**HB-712**

Submitted on: 2/2/2019 12:05:14 AM

Testimony for JUD on 2/5/2019 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gerard Silva	Individual	Oppose	No

Comments:

This is Out and Out Discrimination and sueing the County and State will be a priority!!

You can not Discriminat one Office from another it is either all offices or NONE!



**LATE**

**HB-712**

Submitted on: 2/5/2019 11:50:40 AM

Testimony for JUD on 2/5/2019 2:05:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Melodie Aduja	O`ahu County Committee on Legislative Priorities of the Democratic Party of Hawai`i	Support	No

Comments:

After 2nd Draft