



HAWAI'I STATE ETHICS COMMISSION

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

Committee: Committee on Government Operations
Bill Number: S.B. 2114
Hearing Date/Time: Tuesday, January 28, 2020, 2:45 p.m.
Re: Testimony of the Hawai'i State Ethics Commission
in **SUPPORT** of S.B. 2114, Relating to the Code of Ethics,
WITH PROPOSED AMENDMENTS

Dear Chair Thielen, Vice Chair Inouye, and Committee Members:

The Hawai'i State Ethics Commission ("Commission") supports S.B. 2114, which seeks to promote integrity in government by ensuring a distinct wall of separation between lobbyists and high-ranking government officials. As discussed more fully below, the Commission also proposes several amendments.

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

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).

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 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 the Committee may wish to exclude some of the positions on this list. Overall, however, the Commission strongly supports this measure and respectfully asks for its passage.

Proposed amendments:

First, the Legislative Reference Bureau has already reviewed and re-structured this measure for clarity, and this revised version has been introduced as [House Bill 2124](#). The Commission respectfully recommends that S.B. 2114 be amended to mirror the language in H.B. 2124.

Second, 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).

Finally, 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 S.B. 2114.

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
SENATE COMMITTEE ON GOVERNMENT OPERATIONSTuesday, January 28, 2020
2:45 pm
State Capitol, Conference Room 225in consideration of
SB 2114
RELATING TO THE STATE ETHICS CODES.

Chair THIELEN, Vice Chair INOUYE, and Members of the Senate Government Operations Committee

Common Cause Hawaii supports SB 2114, which would prohibit elected officials, employees of the legislature, and certain other high—ranking state officials from representing any person or business in a legislative or administrative action before the State for twelve (12) months after the termination of their employment. Many decisions are made at the legislative level and administrative level by an administrative agency, and elected officials, employees of the legislature, and certain other high—ranking state officials should properly be limited in their lobbying efforts immediately leaving state employment to reduce the undue influence that may be exerted on former colleagues and/or employees.

SB 2114 is a good first step to prohibiting lobbying by former legislators and some executive-branch employees through instituting a twelve (12) month “cooling-off” period at the administrative level. SB 2114 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 all executive branch employees who were employed in a position that required senate confirmation, in addition to the specific officials named in SB 2114.

Common Cause Hawaii, as a grassroots, nonpartisan, nonprofit organization dedicated to good government reforms, supports SB 2114 in addressing the “revolving door” practice of public officials or employees abandoning public service for lobbying positions.

Thank you for the opportunity to testify in support of SB 2114. If you have further questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii



Pono Hawai'i Initiative

Josh Frost - President • Patrick Shea - Treasurer • Kristin Hamada
Nelson Ho • Summer Starr

Tuesday, January 28, 2020

Relating to the State Ethics Code
Testifying in Support

Aloha Chair and members of the committee,

The Pono Hawai'i Initiative (PHI) **supports SB 2114 Relating to the State Ethics Code**, which helps to draw clear lines regarding which former state employees are prohibited from representing a person or business in a legislative or administrative action before the state for twelve months after termination of their employment.

This helps to maintain the integrity of state employees and help to remove the potential conflict of interests that might arise. Creating these types of barriers helps to ensure good government.

For all these reasons, we urge you to **vote in favor of SB 2114**.

Mahalo for the opportunity,
Gary Hooser
Executive Director
Pono Hawai'i Initiative