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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Government Reform
Wednesday, March 3, 2021
11:00 a.m.
Via Videoconference**

**On the following measure:
S.B. 610, S.D. 1, RELATING TO BOARDS AND COMMISSIONS**

Chair McKelvey and Members of the Committee:

My name is Ahlani Quiogue, and I am the Licensing Administrator of the Department of Commerce and Consumer Affairs' (Department) Professional and Vocational Licensing Division (PVL). The Department supports the intent of and offers comments on this bill.

The purposes of this bill are to prohibit a public member of any board or commission under the Department's purview from: (1) being engaged in the occupation that the board or commission regulates; (2) being associated with a member of the occupation that the board or commission regulates that results in a material conflict of interest, an appearance of impropriety, or a reasonable suspicion that the public member does not represent the public interest; or (3) having a financial interest in the regulated occupation.

The Department supports the intent of this bill to prohibit a public member of any board or commission administratively attached to it from being engaged in the

occupation that the board or commission regulates or to have a direct financial interest in the occupation that the board or commission regulates.

The Department recommends clarifying the phrase “material conflict of interest” on page 3, line 16 of S.D. 1, as professions may define that term differently.

Thank you for the opportunity to testify on this bill.



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 Reform
Bill Number: S.B. 610, S.D.1
Hearing Date/Time: Wednesday, March 3, 2021, 11:00 a.m.
Re: Testimony of the Hawai'i State Ethics Commission
SUPPORTING THE INTENT of S.B. 610, S.D.1, Relating to Boards and Commissions

Chair McKelvey, Vice Chair Wildberger, and Committee Members:

The Hawai'i State Ethics Commission ("Commission") supports the intent of S.B. 610, S.D.1, which promotes integrity in state government by reducing potential conflicts of interests and enhancing public confidence in state government.

The Conflicts of Interests law, HRS § 84-14, currently prohibits state board members from taking official action directly affecting a business in which they have a financial interest (such as their private employer),¹ or from assisting or representing a business before their state board. See HRS § 84-14(a); HRS § 84-14(d).² The Conflicts of Interests law has a limited exception for board members who are mandated by statute to possess particular qualifications ("Mandated board members"). See HRS § 84-14(a). Mandated board members are allowed to

¹ HRS § 84-14(a) provides:

(a) No employee shall take any official action directly affecting:

(1) A business or other undertaking in which the employee has a substantial financial interest; or

(2) A private undertaking in which the employee is engaged as legal counsel, advisor, consultant, representative, or other agency capacity.

A person whose position on a board, commission, or committee is mandated by statute, resolution, or executive order to have particular qualifications shall only be prohibited from taking official action that directly and specifically affects a business or undertaking in which the person has a substantial financial interest; provided that the substantial financial interest is related to the member's particular qualifications.

² HRS § 84-14(d) provides:

No legislator or employee shall assist any person or business or act in a representative capacity for a fee or other compensation to secure passage of a bill or to obtain a contract, claim, or other transaction or proposal in which the legislator or employee has participated or will participate as a legislator or employee, nor shall the legislator or employee assist any person or business or act in a representative capacity for a fee or other compensation on such bill, contract, claim, or other transaction or proposal before the legislature or agency of which the legislator or employee is an employee or legislator.

take official action affecting their industries or professions as a whole, and are only prohibited from taking official action and directly and specifically affecting their own businesses.

S.B. 610, S.D.1, goes further than the State Ethics Code by prohibiting public board members from being engaged in the occupation that their board regulates or from being associated with a member of that occupation if it creates a material conflict of interest or the appearance of impropriety. The Commission believes that S.B. 610, S.D.1, will further reduce potential conflicts of interests, but does not comment on the remaining aspects of the bill.

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on S.B. 610, S.D.1.

Very truly yours,

Kee Campbell
Staff Attorney