



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

H.B. NO. 2004, RELATING TO ONLINE FANTASY SPORTS.

BEFORE THE:

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT

DATE: Friday, February 4, 2022 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 312, Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General, or
Christopher J.I. Leong or Bryan C. Yee, Deputy Attorneys General

Chair Quinlan and Members of the Committee:

The Department of the Attorney General (Department) has the following concerns related to the creation of a registration and monitoring program for operators of online fantasy sports platforms and opposes placing this program within the Department.

This bill proposes to: (1) add a new chapter to the Hawaii Revised Statutes (HRS) to establish an online fantasy sports contests registration and monitoring program under the Department, which will require the Department to approve and deny applications for registration, prescribe the initial form of the application for registration, renew registrations, review and approve each platform and contest offered by an operator or registrant, accept and investigate complaints from authorized players and attempt to mediate complaints where appropriate, investigate alleged violations of the chapter, initiate enforcement proceedings where necessary or appropriate, adopt administrative rules to implement the chapter, and publish annual reports based on information provided by all registrants; (2) appropriate funds to the Department to establish and implement the registration and monitoring program for online fantasy sports contests; (3) exempt registered online fantasy sports contests from part III of chapter 712, HRS; and (4) amend section 712-1220, HRS, by defining "online fantasy sports contest" and amending the definitions of "contest of chance" and "gambling".

The Department of the Attorney General is not a regulatory agency. The Department provides legal advice and otherwise represents State agencies and officials

that regulate and enforce State programs. Implementation and operation of the registration and monitoring program that this bill seeks to create is more appropriately placed within a subject matter department. Moreover, if the registration and monitoring program is placed within the Department and the Department subsequently seeks to bring a criminal prosecution against an unregistered operator, this would place the Department in the conflicting positions of being both prosecutor and witness (i.e., as program administrator) in the same case.

We respectfully ask the measure be held or designate a different department or agency to regulate and enforce the online fantasy sports contests registration and monitoring program. Thank you for the opportunity to testify.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT
ON
HOUSE BILL NO. 2004

February 4, 2022
10:00 a.m.
Room 312 and Videoconference

RELATING TO ONLINE FANTASY SPORTS

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 2004 appropriates an unspecified amount of general funds for FY 23 for the Department of the Attorney General to establish and implement a registration and monitoring program for online fantasy sports contests.

B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

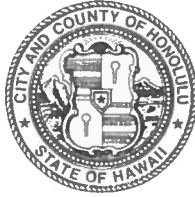
The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

POLICE DEPARTMENT
CITY AND COUNTY OF HONOLULU

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RICK BLANGIARDI
MAYOR



RADE K. VANIC
INTERIM CHIEF

LATE

OUR REFERENCE TN-GK

February 4, 2022

The Honorable Sean Quinlan, Chair
and Members
Committee on Economic Development
House of Representatives
Hawaii State Capitol
415 South Beretania Street, Room 312
Honolulu, Hawaii 96813

Dear Chair Quinlan and Members:

SUBJECT: House Bill No. 2004, Relating to Online Fantasy Sports

I am Captain Tate Nojima of the Narcotics/Vice Division of the Honolulu Police Department (HPD), City and County of Honolulu.

The HPD opposes House Bill 2004, Relating to Online Fantasy Sports.

The HPD opposes the establishment of an online fantasy sports contests registration and monitoring program under the Department of the Attorney General. Numerous studies have confirmed that gambling causes problems such as bankruptcy, theft, embezzlement, suicide, child abuse and neglect, divorce, incarceration, and homelessness. Studies have also demonstrated that gambling schemes are essentially regressive taxes on low-income people, those who can least afford to participate. The financial burden associated with these problems will far outweigh any benefit realized in the name of community betterment.


The HPD urges you to oppose House Bill No. 2004, Relating to Online Fantasy Sports.

Thank you for the opportunity to testify.

APPROVED:


Rade K. Vanic
Interim Chief of Police

Sincerely,


Tate Nojima, Captain
Narcotics/Vice Division



TESTIMONY OF REBECCA LONDON ON BEHALF OF DRAFTKINGS IN SUPPORT OF H.B. 2004,
RELATING TO ONLINE FANTASY SPORTS

February 4, 2022

My name is Rebecca London and I am here today to provide testimony for DraftKings in support of HB 2004, relating to online fantasy sports contests.

DraftKings is a digital sports entertainment and gaming company created to fuel the competitive spirit of sports fans with products that range across daily fantasy, regulated gaming, and digital media. Headquartered in Boston and launched in 2012, DraftKings is a multi-channel provider of gaming technologies, powering sports and gaming entertainment in 17 countries. DraftKings' daily fantasy sports product is available in 6 countries internationally with 15 distinct sports categories.

Across the country millions of people participate in fantasy sports. These fans relish the opportunity to compete with their friends, family, and other sports fans in a game that tests their skill and knowledge. 25 states and Puerto Rico have passed laws to protect their residents' ability to play fantasy sports, and their right to be treated fairly while playing. This progress speaks to the importance of fantasy sports in the recreational and social lives of many citizens. It also reflects the consensus that laws should be updated to appropriately regulate this activity. In fact, in 2006, Congress recognized fantasy contests as a game of skill, carving it out from the Unlawful Internet Gambling Enforcement Act, a federal law governing the conduct of gaming online.

DraftKings supports HB 2004's measures to promote consumer protection and fair competition, because we know that players' trust in the integrity of the product is essential to creating a successful fantasy sports market. DraftKings is an industry leader in user safeguards and enriching fan interaction, and we would welcome a regulatory environment that holds all paid fantasy sports companies to the high standards we have set for ourselves.

HB 2004 would codify many of the best practices that DraftKings implements as standard features of our platform, and that have proven to be effective controls in regulated jurisdictions across the country. For example, DraftKings has protective measures in place to prohibit minors from competing in daily fantasy sports contests, and, to promote transparency, we prohibit users from playing with multiple accounts.

To promote confidence in the integrity of the contests we offer, DraftKings prohibits our own employees from participating in our public contests, and we prohibit our employees from disclosing proprietary information to contestants.

DraftKings provides our users with resources to ensure that they have a fun and safe experience. We have on-boarding procedures to educate our players about the contests. We have means by which new players can avoid competing with more experienced players. We



allow players to set self-imposed limits on their deposit amounts. And we take pride in our customer service and grievance procedures.

We are supportive of legislative efforts to enable Hawaii's residents to participate in fantasy sports contests in a safe, regulated structure with ample consumer protections offered by licensed operators. At DraftKings, we share a commitment to a transparent, safe, and fun form of competitive entertainment for Hawaii's sports fans.

Thank you for the opportunity to present this testimony and I am happy to answer any questions you may have.



February 4, 2022

Testimony to the House Economic Development Committee
RE: HB2004

Peter Schoenke,
Legislative Committee Chair, FSGA

On behalf of the Fantasy Sports & Gaming Association (“FSGA”) I’m writing to ask for your support of House Bill 2004, a bill to confirm the legality of fantasy sports that also protects fantasy sports players.

Since 1998, the FSGA has been the leading representative of the fantasy sports industry. The FSGA represents over 200 member companies, which provide fantasy sports games and software used by virtually all of the 59 million players in North America. The FSGA's members include such major media companies as ESPN, CBS, Yahoo!, NBC, NFL.com and FOX Sports, content and data companies such as USA Today, RotoWire and Sportradar, long-standing contest and league management companies such as the Fantasy Football Players Championship and MyFantasyLeague and almost every major daily fantasy sports contest company, including FanDuel and DraftKings.

Over 59 million people in the USA and Canada participate in some form of fantasy sports. And they do so because it is a form of entertainment that gives them a deeper appreciation for the sports that they love. All the major sports leagues recognize fantasy sports as a legitimate and fun hobby – in all its forms whether season-long, free, paid or daily fantasy sports.

Fantasy sports have grown rapidly in popularity the past twenty years fueled by technological innovation. Daily fantasy sports in particular have boomed the last few years along with the growth of mobile devices. That growth has brought our industry new challenges.

States have shown that fantasy sports is an activity that can be regulated to ensure a fair and balanced playing field. Twenty-five states have passed laws clarifying that fantasy sports are legal games of skill, while adding common-sense consumer protection measures.

We believe that these common-sense consumer protections in HB2004 strike the right balance of implementing necessary protections for players, without being unduly burdensome on the businesses that would operate under the framework. The legal certainty afforded by the bill would ensure that our member companies may operate in the state and that Hawaii residents may keep participating in the fantasy sports contests they love.

And that's important, because paid fantasy sports contests are something people in Hawaii want to play. The FSGA estimates more than 200,000 residents of Hawaii play in fantasy sports leagues and contests.



We support HB2004 and look forward to working with the legislature to create a safe and enjoyable fantasy sports gaming experience for all residents of Hawaii.

Sincerely,

A handwritten signature in black ink that reads 'Peter Schoenke'.

Peter Schoenke
Chair—Legislative Affairs Committee, Fantasy Sports and Gaming Association
peter@rotowire.com



**Committee on Economic Development
February 4, 2022**

**Arturo Barajas
Government Affairs Manager
FanDuel Group, Inc.**

Chairman Quinlan and members of the committee. My name is Arturo Barajas, Government Affairs Manager for FanDuel, Inc. and I appear today to urge the committee to support HB 2004 to bring paid entry fantasy sports contests to Hawaii.

FanDuel was founded as a fantasy sports company in 2009 and has been a leading operator of fantasy sports contests for over a decade. Fantasy sports contests have continued to grow in popularity and scale over that last decade. FanDuel currently offers paid entry fantasy sports contests in 45 states.

Fantasy sports used to be played with pencil and paper with your friends in your living room. Now it is played on the internet with your friends, co-workers, or just other competitors across the country. That includes people who have been playing season-long fantasy football for decades with their friends and neighbors. And as with any evolving industry, the product has outgrown statutes that were not written with fantasy sports in mind. And that's why I am testifying before you today.

For those of you who are unfamiliar with fantasy sports, they are contests with entry fees and prizes, where participants select a roster of real-world athletes and are awarded points based on a scoring system for the performance of those athletes. Whoever has the most points, wins. Fantasy sports is about testing your skill at putting together the best lineup in football, baseball, basketball, or other sports. The final score or outcome of the real-world games does not matter in fantasy sports. Rather it is all about the stats and your skill to put together a roster of players.

HB 2004 would allow for paid entry fantasy sports contests and allow for a framework of consumer protections. Important consumer protections like prohibiting play by minors, ensuring that people who might have an unfair advantage such as athletes and officials, cannot play, and making sure that customer funds are protected. There are also tools to allow a fantasy sports player to set limits on how much they would like to deposit into their account.

All of these consumer protections allow for a safe and fun experience for those who participate in paid entry fantasy sports contests and HB 2004 is crucial a step to allowing that to happen.

Thank you, Mr. Chair and Members, for allowing me to testify in support of HB 2004.