



The Judiciary, State of Hawai‘i

Testimony to the Thirty-Second Legislature, 2024 Regular Session

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Mike Gabbard, Vice Chair

Thursday, February 15, 2024, 9:30 a.m.
State Capitol, Conference Room 016 & Videoconference

by:
Thomas J. Berger
Staff Attorney for the Hawai‘i Supreme Court

Bill No. and Title: Senate Bill No. 3350, Relating to Public Service.

Purpose: Provides that the financial disclosure requirements of the code of ethics applies to justices, judges and judicial nominees and requires the commission on salaries to consider the deterrence of bribery and corruption when making is recommendations.

Judiciary’s Position:

This bill seeks to subject judges, justices, and judicial nominees to the financial disclosure requirements of the code of ethics under chapter 84, Hawai‘i Revised Statutes. The Judiciary opposes those provisions of S.B. 3350 that adds judges and justices to HRS § 84-17.

Rule 15 of the Rules of the Supreme Court already requires judges and justices to file annual financial disclosure forms. These forms are available for public inspection and copying in the clerk’s office and are available on the Judiciary’s website in an ADA-compliant format. As such, the judiciary requests the references to “judges” and “justices” be deleted from SB 3350 at page 3.

Another concern is the matter of enforcement. Clearly, an important component of HRS chapter 84 is enforcement against employees who do not comply with the ethics code. S.B. No.



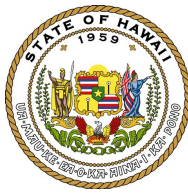
3350 is silent as to how judges and justices would or could be disciplined if they were to fail to file a financial disclosure statement, or file it inaccurately or incompletely.

Article 6, section 5 of the Hawai'i State Constitution confers upon the Supreme Court sole power to impose judicial discipline. Respectfully, the Hawai'i State Ethics Commission could not discipline judges if they were not in compliance with the new HRS chapter 84 requirements. Thus, this bill would have no enforcement component, which would render it distinct from the mandates for other public employees required to submit disclosure statements under HRS chapter 84. However, to facilitate review of financial disclosures on one platform, the HSEC could link to the Judiciary "Financial Disclosure" site so that judges' financial statements could be easily accessed from the HSEC website.

S.B. 3350 further requires judicial nominees to submit financial disclosure statements. While the Judiciary takes no position concerning this requirement, further clarification as to what constitutes an official "nominee" could be useful. Additionally, this measure could be limited to those nominees selected by the chief justice or the governor who are not already required to make a financial disclosure .

Finally, the bill requires that the Commission on Judicial Salaries "consider the deterrence of bribery and corruption" in making its salary recommendations. The Commission's 2019 Report makes reference to decision-making criteria considered in making its recommendations. In so doing, it also reviews criteria used by previously constituted Salary Commissions and further considers testimony from stakeholders, so it may be in an opportune position to determine the criteria to be considered once the Commission is convened.

Thank you for the opportunity to testify on S.B. No. 3350.



HAWAI'I STATE ETHICS COMMISSION

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

Committee: House Committee on Higher Education & Technology
Bill Number: SB 3350
Hearing Date/Time: February 15, 2024, 9:30 a.m.
Re: Testimony of the Hawai'i State Ethics Commission **COMMENTING**
on SB 3350, Relating to Financial Disclosures of Judges & Justices

Aloha Chairs Rhoads, Vice-Chair Gabbard, and Committee Members:

The Hawai'i State Ethics Commission ("Commission") presents **comments** on SB 3350, proposing mandatory financial disclosure requirements for judges, justices, and nominees to judicial vacancies. Additionally, the bill tasks the Commission on Salaries with considering the deterrence of bribery and corruption in salary recommendations.

The Commission has not yet had an opportunity to consider this bill. It will address this bill at its next sunshine meeting, on February 21, 2024.

The Commission is currently engaged in discussions with the Judiciary regarding existing Judicial ethics standards. The Judiciary has demonstrated a willingness to share current practices and engage in dialogue about potential enhancements to uphold the "highest standards of ethical conduct" among all state employees. The subject matter of SB 3350 may feature in these discussions.

Commission staff further note that the Commission can implement the sections of this bill pertaining to the Commission itself, should it become law.

Mahalo for the opportunity to testify on this bill.

Very truly yours,

/S/ Robert D. Harris
Robert D. Harris
Executive Director and General Counsel



Committee on Judiciary
Chair Karl Rhoads, Vice Chair Mike Gabbard

Friday, January 26, 2024 CR016
SB3350 – Relating to Public Service

TESTIMONY

Judith Mills Wong, Legislative Committee, League of Women Voters of Hawaii

Chair Rhoads, Vice Chair Gabbard, and Committee Members:

The League of Women Voters of Hawaii submits comments on SB3350

The League of Women Voters encourages all methods of assuring ethical behavior in public service. We certainly support the requirement that nominees for justices and judges file disclosure of financial interests. This would help the public be confident in the ethical standing of nominees.

We are aware that the judiciary currently has its own system for monitoring ethical behavior. There could be some advantage to having all parties under the one umbrella of the State Ethics Office, however, we do not have a position on this aspect of the proposed bill.

Thank you for the opportunity to submit testimony.