



HAWAI'I STATE ETHICS COMMISSION

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

Committee: House Committee on Government Operations
Bill Number: HB 412, HD1
Hearing Date/Time: March 18, 2025, 3:05 p.m.
Re: Testimony of the Hawai'i State Ethics Commission in **SUPPORT** of
HB 412 HD1, Relating to Lobbying

Aloha Chair McKelvey, Vice Chair Gabbard, and Committee Members:

The Hawai'i State Ethics Commission (“Commission”) **strongly supports** HB 412 HD1, which makes essential updates to Hawai'i’s lobbyist law to enhance transparency and accountability in state government.

Currently, Hawai'i’s definition of “lobbying” is outdated and lags behind a growing national trend to regulate procurement lobbying. Numerous jurisdictions, including Alabama, Arizona, Arkansas, California, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, and Virginia, already classify procurement-related communications as lobbying. Furthermore, the federal Lobbying Disclosure Act regulates procurement-related activities at the federal level.

This measure addresses this gap by expanding Hawaii’s definition of lobbying to include procurement matters beyond those covered under Hawai'i Revised Statutes chapters 103D and 103F. The bill focuses on “pre-procurement” communications—efforts to influence or shape procurement decisions through interactions with high-level government officials. By addressing these activities, this bill promotes greater transparency and oversight, which are critical to reducing corruption, waste, and fraud in state procurements.

Additionally, HB 412 HD1 introduces a presumption to streamline regulatory oversight. Under this measure, testimony submitted by a lobbyist on matters relevant to their employer or owned business is presumed to be made on behalf of that employer or business rather than in a personal capacity. This common-sense clarification ensures accountability by addressing scenarios where employees advocate for their employer’s interests while claiming to act independently.

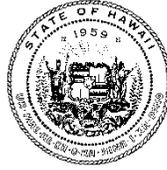
This bill represents a measured and thoughtful improvement to Hawai'i's lobbying framework. By enhancing transparency, accountability, and fairness in government contracting, this measure establishes a regulatory environment that curbs undue influence and fosters equitable competition. These reforms ultimately benefit taxpayers, businesses, and the integrity of Hawai'i's government.

Mahalo for the opportunity to testify in strong support of HB 412 HD1.

Very truly yours,

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

JOSH B. GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



BONNIE KAHAKUI
ADMINISTRATOR

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TESTIMONY
OF
BONNIE KAHAKUI, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE SENATE COMMITTEE
ON
GOVERNMENT OPERATIONS
MARCH 18, 2025, 3:05 PM

HOUSE BILL 412, HD1
RELATING TO LOBBYING

Chair McKelvey, Vice Chair Gabbard, and members of the committee, thank you for the opportunity to submit testimony on House Bill 412, HD1. The State Procurement Office (SPO) supports this bill with the addition of language to ensure communication with purchasing agencies that are impacted.

The SPO recommends the following revision to Section 2, page 2, lines 14 to 21, and page 3, lines 1 to 2.

§97-____ Contracts voidable. In addition to any other penalty provided by law, any contract or other action entered into by the State in violation of this chapter is voidable on behalf of the State; provided that in any action to void a contract pursuant to this section the interests of third parties who may be damaged thereby shall be taken into account, and the action to void the contract is initiated within sixty days after the determination of a violation under this chapter. The attorney general, in consultation with the head of the purchasing agency impacted, shall have the authority to enforce this section.

This additional language allows the purchasing agency to communicate any concerns such as delays in the start of a project or completion of a project, warranty issues, obligations to a third party, or increased costs to re-procure.

Thank you for the opportunity to submit testimony on this measure.



**Testimony to the Senate Committee on Government Operations
Tuesday, March 18, 2025; 3:05 p.m.
State Capitol, Conference Room 225
Via Videoconference**

RE: HOUSE BILL NO. 0412, HOUSE DRAFT 1, RELATING TO LOBBYING.

Chair McKelvey, Vice Chair Gabbard, and Members of the Committee:

The Hawaii Primary Care Association (HPCA) is a 501(c)(3) organization established to advocate for, expand access to, and sustain high quality care through the statewide network of Community Health Centers throughout the State of Hawaii. The HPCA respectfully **OPPOSES** House Bill No. 0412, House Draft 1, RELATING TO LOBBYING.

By way of background, the HPCA represents Hawaii's Federally Qualified Health Centers (FQHCs). FQHCs provide desperately needed medical services at the frontlines to over 150,000 patients each year who live in rural and underserved communities. Long considered champions for creating a more sustainable, integrated, and wellness-oriented system of health, FQHCs provide a more efficient, more effective and more comprehensive system of healthcare.

This measure, as received by your Committee, would:

- (1) Establish certain presumptions regarding lobbying on behalf of private clients;
- (2) Make certain contracts voidable when entered into in violation of the State Lobbying Law; and
- (3) Expand the definition of "lobbying" to include certain communications with high-level government officials regarding procurement decisions.

This measure would take effect on January 1, 2027.

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As presently drafted, this measure will fundamentally change the way social service nonprofit organizations operate. For organizations that rely on contracts with the State, or by extension the federal government via state-administered contracts, any communication by a "paid employee, officer or director" of the organization with a legislator or employee of a governmental agency could be construed by the Ethics Commission as lobbying. Unless that paid employee, officer, or director is registered as a lobbyist on behalf of the organization, the organization could be found in violation of the Ethics Law. Such a violation could result in the voiding of all the organization's contracts.

Nonprofits, including FQHCs provide essential health care and social services to many communities throughout the State by managing contracts for services with the federal government, which are managed by the State Departments of Human Services and Health, respectively. These contracts include Medicaid reimbursement and payments for healthcare services to the uninsured and underinsured. Government partnerships with nonprofits play a critical role in assuring that essential services are accessible to Hawaii's rural and isolated communities.

This measure, should it be enacted, would unduly increase the administrative burden that is already taxing our FQHCs and nonprofits. For example, the HPCA would potentially need to have every employee, officer, and board member register as a lobbyist on behalf of our organization. We would also need to advise our member FQHCs to do the same for their employees, officers and board members. In the situation of HPCA's board members, who are also the Chief Executive Officers of their respective FQHCs, they would have to register not only as a lobbyist for the HPCA, but also for their FQHC.

Also, because many of our board members serve on the boards of directors of other organizations, should this bill be enacted, board members of all organizations will likely need to follow suit. Conceivably, you could have as many as five or more organizations listing the same person as a lobbyist. And any action taken by that person on behalf of a single organization could be construed a "lobbying" on behalf of other organizations if the Ethics Commission determines that another organization "directly benefits" from that action, as specified by the presumption that this bill would establish.

This situation further raises logistical concerns. Is the Ethics Commission prepared for the potential exponential increase in the number of registered lobbyists and the multiple registrations individuals will be assigned?

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From a labor perspective, it is unclear whether an employer can prohibit an employee, officer, or director from participating in the legislative process when such activities are conducted on their own personal time. Yet, if this bill was enacted, even if the employee, officer, or director takes personal leave and discloses that he or she is communicating with the legislator solely in a personal capacity, the employer could still be subject to penalty under this bill if the organization is deemed by the Ethics Commission to be "directly benefiting" from the activity. This is because this bill would establish a presumption that the employee, officer, or director was compensated by the organization for their lobbying effort.

In light of the foregoing, the HPCA respectfully asks that this measure be filed.

Thank you for the opportunity to testify. Should you have any questions, please do not hesitate to contact Public Affairs and Policy Director Erik K. Abe at 536-8442, or eabe@hawaiiipca.net.