

HAWAI‘I STATE ETHICS COMMISSION

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

Committee: House Committee on Judiciary & Hawaiian Affairs
Bill Number: HB 894
Hearing Date/Time: February 5, 2025, 2:00 p.m.
Re: Testimony of the Hawai‘i State Ethics Commission Offering **Comments** on
HB 894, Prohibiting Lobbyists from Soliciting Contribution from Client
Lobbyists

Aloha Chair Tarnas, Vice Chair Poepoe, and Committee Members:

The Hawai‘i State Ethics Commission (“Commission”) has not yet had the opportunity to consider HB 894 in a regularly scheduled meeting. Should this measure advance, the Commission would have the opportunity to take an official position.

The Commission has previously expressed support for restricting campaign contributions from state and county contractors and their immediate family members, recognizing the potential for conflicts of interest in government contracting.

Regarding Section 8 of this measure, Commission staff seek further clarification on its intent and potential implications. As currently drafted, the language raises concerns that:

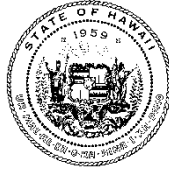
1. It may discourage individuals from voluntarily registering as lobbyists, leading to reduced transparency in government affairs.
2. It may present constitutional challenges under the First Amendment.
3. It could pose significant enforceability issues.

We welcome the opportunity to work with the Committee to refine the language and ensure that the measure is both effective and legally sound.

Mahalo for your time and consideration.

Very truly yours,

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



STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
STATE PROCUREMENT OFFICE

P.O. Box 119
Honolulu, Hawaii 96810-0119
Tel: (808) 586-0554
email: state_procurement_office@hawaii.gov
<http://spo.hawaii.gov>

TESTIMONY
OF
BONNIE KAHAKUI, ADMINISTRATOR
STATE PROCUREMENT OFFICE

TO THE HOUSE COMMITTEE
ON
JUDICIARY & HAWAIIAN AFFAIRS
FEBRUARY 5, 2025, 2:00 PM

HOUSE BILL 894
RELATING TO GOVERNMENT

Chair Tarnas, Vice Chair Poepoe, and members of the committee, thank you for the opportunity to submit testimony on House Bill 894. The State Procurement Office (SPO) appreciates the bill's intent to deter unethical behavior that affects procurements and provides the following comments and recommendations.

- House Bill 894 proposes to amend Section 11-355, Hawaii Revised Statutes (HRS), by removing "state contractor" or "the State", and add a new section to part XIII, subpart E, in Chapter 11, Hawaii Revised Statutes, called **Contributions or solicitations by state contractors prohibited; list of prohibited state contractors**. This first section of bill only addresses **state** contractors. It is unclear why state and county prospective contractors would have different guidelines. Treating state and county contractors differently may cause confusion and inconsistencies within the vendor community.

SPO recommends the following revisions to Section 1, page 1, lines 4 -5.

"§11 Contributions or solicitations by state and county contractors prohibited; list of prohibited state **and county** contractors.

- The SPO provides comments on Section 1, page 2 lines 7 to 12, which requires state agencies to provide the list of names of state contractors or prospective state contractors to the commission and the commission will periodically publish the names on its website. In FY 2023 there were approximately 1,164 awards, and in FY 2024, 2,907 awards over \$50,000 reported by Executive Branch Departments. If there was an average of 3 offerors/bidders for each solicitation, we are looking at approximately 3,492 prospective

contractors for FY 2023, and 8,721 prospective contractors for FY 2024 that would have to be reported.

Requiring government entities to provide offerors/bidders names will be an administrative burden to state agencies.

- The SPO opposes adding a new section in Chapter 103D, HRS, to create a new process to issue prequalification certificates, by the Procurement Policy Board, to prospective contractors for public work construction projects.

Pursuant to §103D-202, the Procurement Policy Board's authority and responsibilities are to adopt rules. Each purchasing entity is responsible for prequalifying contractors as they know best what is required for their projects.

The SPO recommends removal of the language in Section 2, page 11, lines 3 to 11:.

~~SECTION 2. Chapter 103D, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:~~

~~"103D-___ Prequalification of contractors; public buildings; public works. The policy board shall adopt rules to issue prequalification certificates to prospective contractors for the construction, reconstruction, alteration, remodeling, repair, or demolition of any public building or any other public work by the State or a county."~~

Prequalification of suppliers for particular types of goods, services, and construction is already addressed in §103D-311 Prequalification of suppliers, Hawaii Revised Statutes, and Hawaii Administrative Rules (HAR) §3-122-116.

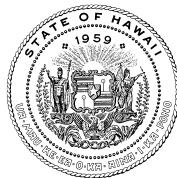
- The SPO recommends removal of any reference to "a valid prequalification certificate issued by the procurement policy board under section 103D-___."

Recommend amending Section 4, page 12, lines 6-13, and page 13, lines 9-10, to read "state or county contractor.

To summarize, the SPO has concerns that House Bill 894 creates an administrative burden by having agencies report the names of state contractors and prospective state contractors and adding another process to issue prequalification certificates to prospective public works contractors. There is no indication of the basis on which such certificates will be issued or the frequency with which compliance must be verified. House Bill 894 also causes confusion due to the inconsistencies between state and county contractors.

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

JOSH GREEN, M.D.
GOVERNOR
KE KIA'ĀINA



KEITH A. REGAN
COMPTROLLER
KA LUNA HO'OMALU HANA LAULĀ

MEOH-LENG SILLIMAN
DEPUTY COMPTROLLER
KA HOPE LUNA HO'OMALU HANA LAULĀ

STATE OF HAWAII | KA MOKU'ĀINA O HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES | KA 'OIHANA LOIHELU A LAWELAWÉ LAULĀ
P.O. BOX 119, HONOLULU, HAWAII 96810-0119

WRITTEN TESTIMONY
OF
KEITH A. REGAN, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE COMMITTEE ON

JUDICIARY & HAWAIIAN AFFAIRS

WEDNESDAY, FEBRUARY 5, 2025, 2:00 P.M.
CONFERENCE ROOM 325 AND VIA VIDEOCONFERENCE, STATE CAPITOL

H.B. 894

RELATING TO GOVERNMENT

Chair Tarnas, Vice Chair Poepoe, and Members of the Committee, thank you for the opportunity to submit testimony on this measure.

The Department of Accounting and General Services (DAGS) offers the following comments:

- This measure requires extensive reporting to the Campaign Spending Commission which would be a challenge especially as many agencies are experiencing staff shortages and face the elimination of position. Reporting for all existing and prospective contractors for all procurement methods would be administratively burdensome requiring additional staffing to accomplish.

- This bill also requires the issuance of prequalification certificates without indicating the basis on which such certificates will be issued, the frequency with which compliance must be verified, the agency responsible for this work, nor any additional positions or funding to fulfill this purpose.

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

KRISTIN E. IZUMI-NITAO
EXECUTIVE DIRECTOR



PHONE: (808) 586-0285
FAX: (808) 586-0288
WWW.HAWAII.GOV/CAMPAIGN

STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

235 SOUTH BERETANIA STREET, ROOM 300
HONOLULU, HAWAII 96813

February 4, 2025

TO: The Honorable David A. Tarnas, Chair
House Committee on Judiciary & Hawaiian Affairs

The Honorable Mahina Poepoe, Vice Chair
House Committee on Judiciary & Hawaiian Affairs

Members of the House Committee on Judiciary & Hawaiian Affairs

FROM: Kristin Izumi-Nitao, Executive Director
Campaign Spending Commission

SUBJECT: **Testimony on H.B. No. 894, Relating to Government.**

Wednesday, February 5, 2025
2:00 p.m., Conference Room 325 & Videoconference

Thank you for the opportunity to testify on this bill. The Campaign Spending Commission (“Commission”) offers the following comments on this bill.

Hawaii Revised Statutes (“HRS”) §11-355 prohibits state and county contractors from making political contributions during the term of their government contracts. During the 2023 legislative session, the Commission and the Commission to Improve Standards of Conduct (“CISC”) had measures introduced that would extend the government contractors’ contribution ban to recipients of grants and subsidies from the state and counties and also to persons associated with the government contractors and grantees. Amendments to HRS §11-355 were proposed. These measures were not passed by the Legislature.

This bill would add a new section to Part XIII of Chapter 11, HRS, that would prohibit state contractors and their principals, as well as prospective state contractors and their principals, and holders and their principals, of a valid prequalification certificate issued by the Procurement Policy Board, from making political contributions to a candidate for Governor, Lieutenant Governor, state Senator, state Representative, a noncandidate committee authorized to make contributions to one of these state offices, or a political party committee. The state contractor and prospective state contractor are also prohibited from soliciting contributions from its employees or its subcontractors and the principals of its subcontractors. The language in the proposed new state contractor ban (Section 1) is complicated and quite different from the language in HRS §11-355, the present state/county contractor ban. For example, the bill’s state contractor contribution ban also applies to a “prospective state contractor.” This concept of

banning a potential government contractor, who has not yet received any state funds, from making contributions is not present in our current law.

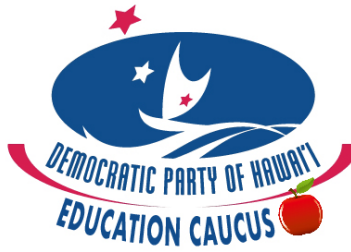
More importantly, in Section 4, the bill **retains** HRS §11-355 for county contractors only. Thus, the Commission will have to apply different laws depending on whether the contractor is a state contractor or a county contractor. The contractor could be a state contractor and a county contractor at the same time. It would also be concerning for a contractor who has contracts with the state and one or more contracts with the county. The same law should apply to all government contractors. Also, this bill, unlike other measures introduced this year, does not address persons who receive grants and subsidies from the state or counties. This was a prime objective of the Commission and the CISC in the 2023 session and this extension of the contribution ban remains important to the Commission today as it extends pay-to-play issues to recipients of grants and subsidies who are also beneficiaries of government funding.

The bill (Sections 5-8) also amends four sections of the Campaign Finance Law that pertain to various contribution limits. The Commission is not aware of the justifications for these amendments. Finally, the bill (Section 9) amends HRS §11-410(a) by repealing the \$1,000 fine ceiling for persons other than Super PACs. Thus, the \$5,000 fine ceiling for Super PACs would apply to all persons. The Commission spent many years trying to get the fine amount for Super PACs to be increased from \$1,000 to \$5,000. The Commission is not aware of the justifications for applying the higher fine to an individual or any entity other than a Super PAC. Even if the Commission believed there were good reasons to amend contribution limits or fine amounts, the Commission would not seek such amendments in a bill that is also proposing an extension of the government contractor ban. All of the Commission's past attempts to do so have been stand-alone bills.

The Commission asks that this Committee pass H.B. No. 371, with the amendment¹ suggested by the Commission in written testimony provided to this Committee at its January 28th hearing, instead of this bill. The only subject of that bill is the amendments to HRS §11-355.

¹ On page 4, add a new subsection to read:

“(h) Each state and county agency shall report to the commission the names of any state or county contractor or grantee and the names of the contractor’s and grantee’s officers and adult immediate family members. The commission shall periodically publish the names of the state and county contractors and grantees, and their officers and adult immediate family members on its website, as reported by the state and county agencies.”



HOUSE BILL 894, RELATING TO GOVERNMENT

FEBRUARY 5, 2025 · JHA HEARING

POSITION: Support.

RATIONALE: The Democratic Party of Hawai'i Education Caucus **supports** HB 894, relating to government, which prohibits state contractors, prospective state contractors, holders of procurement prequalification certificates, or principals of these groups from making contributions to, or soliciting contributions from their employees or from subcontractors or principals of subcontractors on behalf of, certain candidate committees, noncandidate committees, and political party committees; requires the Procurement Policy Board to adopt rules to issue prequalification certificates to prospective contractors for public buildings or other public works; amends the contribution limits for certain individuals and noncandidate committees; and prohibits lobbyists and certain persons related to lobbyists from soliciting contributions from client lobbyists. Increases the administrative fines.

Our democracy belongs to we, the people. At a time when our nation is experiencing extreme political turmoil and basic civil liberties are under assault, we must take steps in Hawai'i to safeguard democratic participation. In the 2024 primary election, for example, our state experienced its lowest turnout in 65 years, with only 32.1 percent of registered voters filling out a ballot. This is, in part, a reflection of the public's deep cynicism with our electoral processes.

Hawai'i continues to be embroiled in public corruption scandals, following the bribery allegations that were levied against former Senate Majority Leader Kalani English and former State Representative Ty Cullen. Other public officials, such as employees at local permitting offices, have also recently been ensnared in bribery scandals, in some cases with connections to Milton Choy, the lobbyist who was responsible for coordinating the bribery scheme that Sen. English and Rep. Cullen became a part of. These cases show that we have a moral crisis in our public institutions and must do all we can to restore integrity to government.

Last year, a Civil Beat/New York Times investigation unveiled just how deeply pay-to-play culture is ingrained in local politics. After reviewing hundreds of thousands of campaign contributions and more than 70,000 government contracts, reporters found that nearly \$1 out of every \$5 donated to politicians came from people tied to companies doing business with state and local governments. As Civil Beat reported at the time, when some companies were on the cusp of winning major government contracts, people connected to them donated large amounts of campaign funds to influential public officials who were in positions to sway the awards.

Perhaps the most telling part of the report is encapsulated in the following excerpt from the special investigation: *Even though those contributors generally didn't acknowledge their connections to the companies, they were not violating Hawai'i law, which only prohibits donations directly from the firms. "Everyone gets very upset with pay-to-play, but it's legal," said Kristin Izumi-Nitao, Executive Director of the Hawai'i Campaign Spending Commission.*

It might be legal today, but it shouldn't be any longer if we care about our future. Government should work for the public interest, not special interests. It is in that spirit that we support this and other reforms to restore integrity to our state's electoral and governmental processes.

Contact: educationcaucusdph@gmail.com



House Committee on Judiciary & Hawaiian Affairs

**Hawai'i Alliance for Progressive Action (HAPA) Strongly Supports: HB894
Wednesday February 5, 2025 at 2:00pm; Conference Room 325**

Dear Chair Tarnas, Vice Chair Poepoe, and Members of the Committee,

HAPA is submitting testimony in STRONG Support of HB 894, which aims to close the “pay-to-play” loophole by prohibiting state and county contractors from making political contributions. This legislation is a critical step toward ensuring fairness and transparency in Hawai'i's electoral and procurement systems.

Allowing contractors to contribute to political campaigns creates a perception of favoritism and undermines public trust in government processes. By closing this loophole, HB 894 reinforces the principle that contracts should be awarded based on merit and public benefit, not on political connections or financial contributions.

This bill also aligns with broader efforts to promote ethical governance. It helps to eliminate conflicts of interest and ensures that elected officials remain accountable to their constituents rather than to donors with vested interests. By mandating the reporting of contractors and prospective contractors, as outlined in the bill, we enhance transparency in the procurement process.

We urge the committee to support HB 894. This measure is essential for restoring public trust.

Thank you for your support and consideration

A handwritten signature in black ink, appearing to read 'Anne Frederick', is positioned above the typed name.

Anne Frederick
Executive Director

HB-894

Submitted on: 2/2/2025 10:49:41 AM

Testimony for JHA on 2/5/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

This good government bill will help level the playing field. Political donations should not be hidden through nefarious means. The public wants openness and a level playing field. Please move this bill forward.