

ACT 138

S.B. NO. 36

A Bill for an Act Relating to Elections.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. The legislature finds that there is a conflict within section 11-216, Hawaii Revised Statutes, in that subsection (c)(2) of that section provides for public hearings, while subsection (d), requires confidentiality. An opinion letter from the Attorney General, dated January 21, 1988, opines that subsection (d) should be given effect and advises “against enforcing the public hearing requirement in subsection (c)(2) to the extent that it is impossible to have a public hearing and maintain the required confidentiality.” The purpose of this Act is to remove the conflicting language from the statute and clearly articulate the legislative intent to maintain confidentiality.

SECTION 2. Section 11-216, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

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“(c) Upon hearing the response of the person cited, if the person elects to respond to the complaint, and upon completion of any investigation, the commission shall make a prompt determination as to whether probable cause exists that a violation has been committed.

- (1) Any person who appears before the commission shall have all of the rights, privileges, and responsibilities of a witness appearing before the courts of this State. All witnesses summoned before the commission shall receive reimbursements as paid in like circumstances in the courts of this State. Any person whose name is mentioned during a proceeding of the commission and who may be adversely affected thereby, may appear personally before the commission on the person’s own behalf or file a written statement for incorporation into the record of the proceeding.
- (2) The commission shall [conduct a public hearing and] cause a record to be made of all proceedings pursuant to this subsection. At the conclusion of proceedings concerning an alleged violation, the commission shall immediately begin deliberations on the evidence and then proceed to determine by majority vote of the members whether probable cause exists that a violation has been committed.”

SECTION 3. Statutory material to be repealed is bracketed.

SECTION 4. This Act shall take effect upon its approval.

(Approved June 7, 1989.)