

LINDA LINGLE
GOVERNOR



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02/20/08
9:13am

RUSS K. SAITO
Comptroller
BARBARA A. ANNIS
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING
AND GENERAL SERVICES
P.O. BOX 119
HONOLULU, HAWAII 96810-0119

TESTIMONY
OF
RUSS K. SAITO, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
SENATE COMMITTEES
ON
TOURISM AND GOVERNMENT OPERATIONS
AND
JUDICIARY AND LABOR
ON
February 20, 2008

S.B. 2570

RELATING TO STANDARDS OF CONDUCT

Chairs Nishihara, Taniguchi, and members of the Committee, thank you for the opportunity to testify on S.B. 2570.

The Department of Accounting and General Services (DAGS) opposes SB 2570. This bill would unnecessarily hamper a nominee to an appointed public office, board or commission in soliciting support for the nominee's nomination in a senate advice and consent proceeding. DAGS does not believe there is an ethical conflict in allowing a nominee to freely solicit support for the nominee's nomination. In response to an inquiry on this matter in 2007, the Executive Director and General Counsel of the Hawaii State Ethics Commission replied as follows:

Dear Mr. Saito:

This letter responds to your request for advice regarding use of state e-mail and your state telephone to ask individuals whether they would be interested in

submitting testimony on your behalf for your upcoming confirmation hearing before the Senate.

After reviewing the State Ethics Code, which is set forth in chapter 84 of the Hawaii Revised Statutes r HRS, it appears that use of state e-mail and your state telephone and other state resources in connection with soliciting support for your confirmation would not run afoul of any of the provisions of the State Ethics Code. As I explained over the telephone yesterday, cabinet members are appointed by the Governor, and then are subject to Senate confirmation. Appointments by the Governor constitute legitimate state business and the Governor may use state resources to achieve confirmation of gubernatorial appointees. Because your involvement in soliciting support for yourself is consonant with and part-and-parcel of the Governor's actions to confirm gubernatorial appointees. We believe that your soliciting support by use of state e-mail or your state telephone or other state resources does not constitute a "private business" activity as that term is meant to be interpreted in HRS section 84-13, the "Fair treatment" section of the State Ethics Code.

Thank you for contacting us regarding this matter. We appreciate your sensitivity to the ethical considerations this situation raises. If you have any questions regarding the above, please do not hesitate to contact me at 587-0460.

Very truly yours,

*(signed)
Daniel J. Mollway
Executive Director
and General Counsel*

(attached is copy of original letter)

DAGS believes that changing the law as this bill proposes would not serve the public purpose of effectively putting before the senate qualified nominees with written support to help the senate in its advice and consent.

Thank you for the opportunity to testify on this matter.



HAWAII
STATE
ETHICS
COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

January 24, 2007

CONFIDENTIAL

Mr. Russ K. Saito
Comptroller and Director
Dept. of Accounting and General Services
Kalanimoku Building
1151 Punchbowl Street
Honolulu, Hawaii 96813

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Very truly yours,

A handwritten signature in cursive script that reads "Daniel J. Mollway".

Daniel J. Mollway
Executive Director
and General Counsel

DJM/af