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STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
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January 26, 2010

TO: The Honorable Jon Riki Karamatsu, Chair
House Judiciary Committee

The Honorable Ken Ito, Vice-Chair
House Judiciary Committee

Members of the House Judiciary Committee

FROM: Barbara U. Wong, Executive Director *B. Wong*
Campaign Spending Commission

SUBJECT: Testimony on H.B. No. 2249, Relating to Elections¹

Tuesday, January 26, 2010
2:30 p.m. in Conference room 325

Chair Karamatsu, Vice-Chair Ito, and Members of the House Judiciary Committee, thank you for the opportunity to testify on this bill. We oppose this bill.

The bill proposes to amend section 11-205.5, Hawaii Revised Statutes, which currently prohibits contributions to any candidate or committee:

- From any person who has a state or county contract for the rendition of personal services, the buying of property, or furnishing any material, supplies, or equipment to the State, any of its counties, department or agency thereof, or for selling any land or building to the State, any of its counties, or any department or agency thereof,
- During the term of the contract,
- If payment is to be made in whole or in part from funds appropriated by the legislative body.

This law was included in an omnibus bill (Act 203, SLH 2005) that was enacted because of "concerns in the community with respect to reforming Hawaii's campaign spending laws."

¹ This bill was referred to only this committee.

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While we do not opine on the procurement law, we do note that those concerns may still arise even if a person competitively bids for a contract. We note that there is some discretion in the procurement process, for example, criteria to evaluate competitive sealed bids include the following: “determine acceptability such as inspection, testing, quality, workmanship, delivery, and suitability for a particular purpose,” in HRS §103D-302 (f). A “responsible bidder” as defined in HRS §103D-104 must have the “capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure could faith performance.”

Additionally, a person is not “exempt” from competitive bidding, but instead chooses what contracts they bid on. The term “competitive bid” is also subject to interpretation. The Committee should carefully consider any amendment that limits the contribution prohibition on contractors with the state and counties only to those contractors that have entered into non-bid contracts.

In the alternative, if the Committee plans to pass this bill out, we would recommend leaving the current statute intact and creating a narrow exception stating that any person who is awarded a contract pursuant to HRS §103D-302 may make contributions pursuant to this subpart.

We are not opposed to the other “house-keeping” provisions in the bill on page 2, lines 11-2; and page 2, lines 8-10.



HAWAII

AMERICANS FOR DEMOCRATIC ACTION

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January 25, 2010

TO: Chair Karimatsu, Vice-Chair Ito and
Members of the House Judiciary Committee

FROM: Americans for Democratic Action/Hawaii
Barbara Polk, Legislative Committee Chair

RE: Opposition to HB 2249 Relating to Elections

Americans for Democratic Action, Hawaii Chapter, strongly opposes the changes from current law put forward in this bill, namely, allowing most government contractors to make contributions to political campaigns and allowing ALL government contractors (including those with no-bid contracts), to make contributions to political parties.

This change would open the way to allegations or the reality of corruption and further decrease the confidence the public has in State government. We are all keenly aware at present that judgements are made about which contractor to select even in competitive contracts. It is all too easy for those judgements to be influenced by the potential for campaign or party contributions. The public needs to know that government contracts are not awarded on a quid pro quo basis, depending on contractors contributions to candidates or parties.

We strongly urge you to defeat this bill.



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House JUD Committee
Monday 1/26/10 at 2:30PM in Room 325
HB 2249

TESTIMONY

Nikki Love, Executive Director, Common Cause Hawaii

Chair Karamatsu, Vice Chair Ito, and Committee Members:

I am testifying in **opposition to HB 2249**.

This bill weakens the prohibition on contractors from making political contributions – by reducing the scope of which contractors are prohibited from donating. This bill also appears to allow all government contractors to give to political parties.

We are opposed to this bill because we believe the existing law is a sound one. The existing law is the result of a “pay to play” reform enacted in 2005 in response to public concern about ties between contracts and political contributions. The existing law is clear and simple. The question now is: Why change this law?

We believe that there is already enough money in politics. If for some reason the legislature believes that more campaign money is necessary, it should not come from government contractors. Instead we would urge you to focus on legislation that would promote:

- a broad base of individual citizens making small donations from their own pockets; and/or
- comprehensive public funding for campaigns.

Mahalo for the opportunity to submit testimony.