

Honolulu, Hawaii

February 2, 2016

RE: S.B. No. 1067
S.D. 2
H.D. 1

Honorable Joseph M. Souki
Speaker, House of Representatives
Twenty-Eighth State Legislature
Regular Session of 2016
State of Hawaii

Sir:

Your Committee on Judiciary, to which was referred S.B. No. 1067, S.D. 2, entitled:

"A BILL FOR AN ACT RELATING TO CHARITABLE SOLICITATION,"

begs leave to report as follows:

The purpose and intent of this measure is to amend Hawaii's charitable solicitation law to:

- (1) Clarify that only charitable organizations that solicit contributions from the public are subject to registration requirements and allow charities that have a group exemption ruling from the Internal Revenue Service to register on behalf of all subordinate organizations;
- (2) Clarify provisions applicable to commercial co-venturers and create penalties for noncompliance;
- (3) Provide for electronic submission of end of solicitation campaign financial reports by registered professional solicitors;
- (4) Impose a late fee for the late submission of annual financial reports by registered professional solicitors identical to the existing late fee in section 467B-6.5(e), Hawaii Revised Statutes (HRS), for the late submission of financial reports by registered charities;



- (5) Repeal the annual fee for charitable organizations that have under \$25,000 in gross revenues and tie the requirement for audited financial statements to "contributions" and not gross revenues; and
- (6) Clarify the registration exemption applicable to accredited educational institutions and facilitate the electronic submission of exemption applications by charitable organizations eligible for a registration exemption.

The Department of the Attorney General, Association of Fundraising Professionals Aloha Chapter, Aloha United Way, and Hawaii Alliance of Nonprofit Organizations testified in support of this measure.

Your Committee has amended this measure by:

- (1) Amending the definitions of "professional fund-raising counsel" or "professional fundraising counsel" and "solicit" and "solicitation" to clarify that persons who merely write applications for grants on behalf of charitable organizations are not subject to this chapter;
- (2) Clarifying that the submission of a grant or subsidy proposal or application to a governmental authority or charitable organization exempt from section 501(c)(3) of the Internal Revenue Code is not considered a solicitation; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Your Committee finds that this measure is necessary to clarify that charitable organizations, including most private foundations and endowed charities, that do not solicit contributions are not subject to registration requirements under chapter 467B, HRS.

Current law provides for the electronic registration by charitable organizations that must register with the Attorney General. This measure would also provide for the electronic submission of the financial reports that professional solicitors are required to submit to the Attorney General at the end of a



solicitation campaign that the professional solicitor has conducted on behalf of a charity. These electronic submissions are expected to substantially reduce the administrative workload and improve public access to reported information.

In April 2015, the Department of the Attorney General deployed an Internet-based registration and registration renewal system for professional solicitors and professional fundraising counsels. The system processes registrations and renewals and allows registered fundraisers to submit contracts, and also allows registered professional solicitors to submit their end of solicitation campaign financial reports electronically as well. In addition, this system provides for more robust public access to information that is submitted by registered fundraisers that used to be submitted in paper form and then compiled on the Attorney General's website.

The measure changes the audit threshold, which is currently tied to the charitable organization's gross revenues, and shifts it to the value of the contributions that the organization has received in the previous year. This change will spare many registered charities the significant expense of conducting audits based on the fact that under chapter 467B, HRS, the definition of "contribution" does not include amounts received for membership dues, government grants, or grants from other organizations that have been granted tax exempt status under section 501(c)(3) of the Internal Revenue Code.

As affirmed by the record of votes of the members of your Committee on Judiciary that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 1067, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1067, S.D. 2, H.D. 1, and be referred to your Committee on Finance.

Respectfully submitted on
behalf of the members of the
Committee on Judiciary,



KARL RHOADS, Chair



