

Appendix B – Meeting Minutes October 19, 2022

Commission to Improve Standards of Conduct

Members:

Judge Daniel R. Foley (Ret.), Chair;

Robert D. Harris, Executive Director and General Counsel of the State Ethics Commission, Vice Chair;

Kristin E. Izumi-Nitao, Executive Director of the Campaign Spending Commission;

Nikos Leverenz, Common Cause Hawaii Advisory Board Member;

Barbara C. Marumoto, Former State Representative;

Janet Mason, Legislative Committee Member, League of Women Voters of Hawaii; and

Florence T. Nakakuni, Former U.S. Attorney for the District of Hawaii.

Note: Ms. Sandy Ma, Executive Director of Common Cause Hawaii, resigned from the Commission effective June 17, 2022, and Mr. Nikos Leverenz was appointed by Speaker of the House of Representatives Scott Saiki to fill that vacancy via [memorandum](#) on the same day.

Resources:

The Commission's website, which includes related materials and information such as House Resolution No. 9 (Regular Session of 2022), the Commission's Interim Report, and meeting notices and minutes, can be found here: [Committees \(hawaii.gov\)](#)

Recordings of the Commission's public meetings may be viewed on the House of Representatives' YouTube channel found here: [Hawaii House of Representatives - YouTube](#)

The Commission may be contacted via email at standardsofconduct@capitol.hawaii.gov.

I. Call to order/Roll call

Chair Foley convened the meeting at 2:00 p.m. All Commissioners were present for the meeting.

II. Approval of minutes

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The [minutes from the October 5, 2022, meeting](#) of the Commission were adopted.

III. Public testimony

The Commission received written public testimony from the Office of Elections and two individuals. One of the individuals provided oral testimony to the Commission pertaining to the importance of providing the public with sufficient notice to substantively participate in the Commission's discussions as well as the legislative process as a whole.

IV. Consideration of Draft Bills Related to Campaign Finance Reform

Commissioner Izumi-Nitao; Tony Baldomero, Associate Director of the Campaign Spending Commission; and Gary Kam, General Counsel of the Campaign Spending Commission, facilitated the discussion of the draft bills.

Commissioner Izumi-Nitao informed the Commission that all of the following ten bills were unanimously approved by the Campaign Spending Commission at their monthly meeting on September 22, 2022, and in accordance with the Sunshine Law. Commissioner Izumi-Nitao noted that some of the draft bills offered to this Commission today were stylistically changed from the bills adopted by the Campaign Spending Commission at their monthly meeting but that the substantive content remains the same. The Campaign Spending Commission hopes that this Commission will also adopt these ten bills.

Commissioner Izumi-Nitao also commented that a public-funding draft bill is being prepared, but it still needs to be presented to the Campaign Spending Commission. Commissioner Izumi-Nitao requested permission for that bill to be presented to this Commission for its consideration at its November 9, 2022, meeting.

A. Increasing administrative fines for Super PACs (HRS §11-410)

The draft bill can be found here: [Draft Super PACs Bill](#).

Commissioner Izumi-Nitao and Gary Kam commented that the Campaign Spending Commission has regularly brought this bill before the Legislature since 2013, including the Regular Session of 2022, but it has not passed the Legislature.

Mr. Kam set forth the draft bill for discussion and decision-making.

Vice Chair Harris inquired why the bill has failed to pass the Legislature and if any specific objections of the Legislature are known. Mr. Kam responded that he does not know of a specific reason as to why the bill has not been passed.

The Commission voted to adopt the draft bill.

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B. Processing Campaign Spending Commission’s final orders of violations (HRS §11-410)

The draft bill can be found here: [Draft Campaign Spending Commission Orders Bill](#).

Commissioner Izumi-Nitao commented that this bill was also before the Legislature during the Regular Session of 2022, but it did not pass. Commissioner Izumi-Nitao and Gary Kam noted that the Campaign Spending Commission worked with the Civil Recoveries Division of the Department of the Attorney General on this bill.

Mr. Kam set forth the draft bill for discussion and decision-making.

The Commission voted to adopt the draft bill.

C. Publishing the names of candidate committees and noncandidate committees who fail to file their Organizational Reports (HRS §11-322 & §11-323)

The draft bill can be found here: [Draft Failure to File Organizational Reports Bill](#).

Commissioner Izumi-Nitao set forth the draft bill for discussion and decision-making.

The Commission voted to adopt the draft bill.

D. Requiring candidate committees and noncandidate committees to file fundraiser notices for all fundraisers regardless of amount (HRS §11-342)

The draft bill can be found here: [Draft Fundraisers Bill](#).

Commissioner Izumi-Nitao set forth the draft bill for discussion and decision-making.

Vice Chair Harris noted public comments questioning whether the bill was overly broad. There was discussion among the Commissioners about what kinds of activities would be covered under the draft bill.

The Commission voted to adopt the draft bill.

E. Banning elected officials from soliciting or accepting campaign contributions during legislative session (HRS §11-357)

The draft bill can be found here: [Draft Campaign Contribution Prohibitions Bill](#).

Commissioner Izumi-Nitao commented that this bill is a carryover of a conversation that began during the Regular Session of 2022.

Commissioner Izumi-Nitao set forth the draft bill for discussion and decision-making.

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The Commission voted to adopt the draft bill.

F. Limiting cash contributions to \$100 (HRS §11-351)

The draft bill can be found here: [Draft Campaign Spending Cash Contributions Bill](#).

Commissioner Izumi-Nitao set forth the draft bill for discussion and decision-making.

Commissioner Leverenz inquired whether contributions could be required to be made in a cashless manner. Commission Marumoto noted the reason for her opposition to this measure and all similar campaign contribution limit proposals is simply to point out that such contribution limits are effectively meaningless when Super PACs do not have any contribution limits.

The Commission voted to adopt the draft bill. Commissioner Marumoto voted in opposition.

G. Expanding the government contractor ban by including state and county grantees in the ban as well as the owners, officers, employees, and their immediate family, of the government contractor and government grantee (HRS §11-355)

The draft bill can be found here: [Draft Grantee Campaign Contributions Bill](#).

Gary Kam set forth the draft bill for discussion and decision-making.

Vice Chair Harris proposed amending subsections (c) and (d) of the draft bill to include the phrase "through the completion of the contract".

The Commission voted to adopt the amendment.

Vice Chair Harris expressed concerns about the constitutionality of banning employees at large companies from making campaign contributions. There was discussion among the Commissioners about whether employees should be covered under the prohibition.

Vice Chair Harris proposed an amendment to delete the word "employee" throughout the draft bill, as appropriate.

The Commission voted to adopt the amendment. Commissioner Leverenz abstained.

The Commission voted to adopt the draft bill, twice amended. Commissioners Izumi-Nitao and Leverenz abstained.

H. Service of Preliminary Determination of Probable Cause orders (HRS §11-405)

The draft bill can be found here: [Draft Preliminary Determination of Probable Cause Bill](#).

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Gary Kam set forth the draft bill for discussion and decision-making.

The Commission voted to adopt the draft bill.

I. Campaign Spending Commission complaints (HRS §11-403)

The draft bill can be found here: [Draft Complaints Alleging Campaign Spending Violations Bill](#).

Gary Kam set forth the draft bill for discussion and decision-making.

The Commission voted to adopt the draft bill.

J. Eliminating the use of campaign funds to purchase up to two tickets for an event or fundraiser held by another candidate or committee (HRS §11-381)

The draft bill can be found here: [Draft Prohibition of Campaign Funds for Two Tickets Bill](#).

Commissioner Izumi-Nitao set forth the draft bill for discussion and decision-making.

The Commission voted to adopt the draft bill.

J1. [Proposed amendment by Common Cause Hawaii and League of Women Voters of Hawaii](#) – Eliminates the use of campaign funds to purchase up to two tickets for an event or fundraiser held by another candidate or committee as well as the use of campaign funds for charitable/community donations, public school/library donations, and full-time scholarship awards (HRS §11-381). Also, eliminates ballot issue committees from returning surplus funds to charitable/community organizations as donations (HRS §11-327).

The Commission decided to consider the proposed amendment as a separate draft bill from the one immediately before it.

Commissioners Mason and Leverenz set forth the draft bill for discussion and decision-making.

Commissioner Marumoto expressed her opposition to this draft bill.

The Commission voted to adopt the draft bill. Commissioner Marumoto voted in opposition. Commissioner Izumi-Nitao abstained.

V. Consideration of Draft Bills Deferred from Prior Meetings

A. Recordings of Public Meetings Draft Bill (deferred from the October 5, 2022, meeting)

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Commissioner Leverenz stated that final language for this draft bill is still being prepared.

B. Public Records Draft Bill (deferred from the October 5, 2022, meeting)

Commissioner Mason explained the amendments to the draft bill, which can be found here: [Draft Open Records Bill Revised](#).

The Commission voted to adopt the amended draft bill.

C. Elections Draft Bill (deferred from the October 5, 2022, meeting)

Commissioner Mason noted that the Office of Elections had submitted supportive written testimony. Commissioner Mason also mentioned that the draft bill has started to be circulated to other agencies, besides the Office of Elections, for comment.

The Commission voted to adopt the draft bill.

VI. Other Matters

Chair Foley reminded the Commission that he will be entering a currently-scheduled four-week arbitration meeting beginning on October 24, 2022. In his absence, Vice Chair Harris will preside over the meetings. Although Chair Foley will not be present to vote, he will be reviewing all documents and providing his input.

VII. Next Meetings

The Commission's next meetings are scheduled for October 26, 2022; November 2, 2022; and November 9, 2022.

On October 26, 2022, Vice Chair Harris will be discussing ethics and legislative process. Because he will be presenting at the meeting, Vice Chair Harris asked if another Commissioner could chair that meeting. Commissioner Mason volunteered to chair the October 26, 2022, meeting without any objections of the Commission.

Chair Foley asked if any Commissioner had something to present on November 2, 2022.

Commissioner Nakakuni explained that the Hawaii Prosecuting Attorneys' Association (composed of the Attorney General of four county prosecutors) will be meeting on November 1, 2022, to discuss a legislative package of bills addressing public corruption. She would like to present those bills on November 9, 2022, to ensure that there is sufficient time to make the bills available for public comment. Commissioner Nakakuni anticipates that there will be approximately three to five bills.

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Commissioner Izumi-Nitao will also present a bill on publicly financed elections at the November 9, 2022, meeting.

At the moment, nothing has been scheduled for November 2, 2022, but Chair Foley would like the commissioners to keep this date open as measures pertaining to Super PACs and public meetings may be ready to discuss at that time.

Chair Foley anticipates tentatively concluding all consideration of draft bills and rules on November 9, 2022, which would provide three weeks to begin finalizing a draft of the report and circulating the report for consideration. Any changes to the schedule can be taken up at the October 26, 2022, meeting.

The Commission's next meeting is scheduled for October 26, 2022, at 2:00 p.m.

The meeting adjourned at 3:06 p.m.