

Appendix B – Meeting Minutes June 29, 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

The Commission will meet in the upcoming weeks on the following topics:

- July 13, 2022: Criminal Prosecution and Fraud; and
- July 27, 2022: Open Government Laws.

Limited decision-making occurred at the meeting. Any proposals or final recommendations to be adopted by the Commission and subsequently submitted to the

Appendix B – Meeting Minutes June 29, 2022

House of Representatives in its Final Report will be the subject of future public meetings and take into consideration input from the public.

I. Call to order/Roll call

Chair Foley convened the meeting at 2:01 p.m. All Commissioners were present for the meeting, except Commissioner Marumoto who was excused.

II. Approval of minutes

The minutes from the June 1, 2022, and June 15, 2022, meetings of the Commission were adopted.

III. Public testimony

The Commission received written public testimony from numerous individuals.

The Commission heard oral public testimony from two individuals pertaining to:

- Full public funding for all state and county elections in Hawaii;
- Banning the solicitation or acceptance of campaign donations during the legislative session;
- Reducing the cap on campaign donations;
- Banning contributions from corporations and unions;
- Limiting the amount of money in candidates' campaign war chests; and
- Concerns that large disparities in the amount of campaign funds could deter potential candidates from running for elected office.

IV. Discussion of reforms related to campaign finance reform

Commissioner Izumi-Nitao facilitated a presentation on public funding of elections that was provided by the Campaign Spending Commission staff and Jonathan Wayne, Executive Director of the Maine Clean Election Act Program. The presentation and discussion also concerned campaign contributions and expenditures; expanding the government contractor ban; enhancing the fundraiser ban; and increased penalties for Campaign Spending Commission violations and administrative investigative tools. More specifically, the presentation detailed the following:

- a. Commissioner Izumi-Nitao discussed the mission, structure, staff, and duties of the Campaign Spending Commission.
- b. Tony Baldomero, the Associate Director of the Campaign Spending Commission, provided a historical overview of the partial public funding of elections in Hawaii,

Appendix B – Meeting Minutes June 29, 2022

including how it has worked in past elections. Mr. Baldomero also discussed the Hawaii County Council comprehensive public funding pilot program.

- c. Jonathan Wayne, Executive Director of the Maine Clean Election Act Program, provided a presentation on the origin, scope, structure, and funding of the Maine Clean Election Act Program, which provides full public financing for candidates for Governor and the Legislature who volunteer to participate in the program. Other jurisdictions with public financing for elections include New York City and Seattle. Mr. Wayne urged the Commission, if it is interested in pursuing public funding of elections, to study the issue and other programs, explore options, and design a program that fits and is tailored specifically to Hawaii. Mr. Wayne is skeptical about public campaign funding as an antidote to isolated instances of public corruption. Mr. Wayne urged the Commission to consider issues such as whether the cost of campaign fundraising poses a barrier to new individuals joining elected public service; whether elected officials feel that they are independent from campaign contributors; and whether there is an unhealthy relationship between elected officials and individuals who have an interest before state government. Mr. Wayne feels that corruption in itself is not the right rationale for publicly funded elections.
- d. Tony Baldomero of the Campaign Spending Commission discussed possible bills related to public funding of elections for the Commission's consideration.
- e. Commissioner Izumi-Nitao discussed the different contribution limits to candidates (depending on the office that they are seeking) and the eight authorized expenditures of campaign funds. Commissioner Izumi-Nitao also discussed possible bills related to further restricting campaign contributions and expenditures for the Commission's consideration. The Commission further discussed whether the expenditure of campaign funds for any purpose other than a purpose directly related to the campaign was appropriate. In addition, the Commission discussed how often and how much in campaign funds is used for purposes other than those directly related to the campaign. Tony Baldomero estimated that over 90 percent of campaign funds are expended for a purpose directly related to the candidate's campaign.
- f. Gary Kam, General Counsel of the Campaign Spending Commission, explained the current government contractor ban. The Commission discussed the feasibility of prohibiting state or county contractors from making campaign contributions before the execution of a contract, such as when a contractor applies or places a bid for a contract. (Existing law prohibits government contractors from making contributions between the execution and completion of the contract.) Mr. Kam discussed possible bills related to expanding the government contractor ban for the Commission's consideration.
- g. Commissioner Izumi-Nitao discussed enhancing the ban on fundraisers. If signed by the Governor, S.B. No. 555, S.D. 1, H.D. 1, which prohibits elected state and county officials from holding fundraisers during any regular or special session of the

Appendix B – Meeting Minutes June 29, 2022

Legislature, would take effect on January 1, 2023. Commissioner Izumi-Nitao explained that the policy intent of requiring the filing of fundraiser notices is transparency. The Commission discussed whether transparency would be heightened by requiring fundraiser notices to be filed either before or after the actual event. Chair Foley expressed concerns with some of the provisions of S.B. No. 555, S.D. 1, H.D. 1, and how they would actually operate. Commissioner Izumi-Nitao discussed possible bills related to increasing restrictions on fundraisers for the Commission's consideration.

- h. Gary Kam set forth the administrative fines for violations of the campaign spending laws. In lieu of an administrative penalty, the Campaign Spending Commission may refer the violation for criminal prosecution. Mr. Kam explained some of the provisions of S.B. No. 665, S.D. 1, H.D. 2, C.D. 1, which has been enacted as Act 181, Session Laws of Hawaii 2022. Mr. Kam also discussed possible bills related to increasing penalties for campaign-spending violations and strengthening the Campaign Spending Commission's administrative and investigative tools for the Commission's consideration.

V. Other matters

Chair Foley reminded the public that the Commission is open to public input at any time and at its next meeting the Commission will discuss potential topics for future meetings to take place in August and September. Procedurally the agenda for the Commission's next meeting will include the discussion for such topics.

Chair Foley encouraged each subject-matter facilitator of the Commission to begin deliberating potential legislative bills and coordinating the drafting of such bills for eventual submission and further consideration of the Commission. Chair Foley also reminded the members of the need to begin working on the Commission's Final Report. Chair Foley informed the public that all bills proposed by the Commission will be open to public comment at a future meeting.

Commissioners discussed how best to address issues that have yet to be decided by the Commission, which must occur before bills can be drafted. There was a suggestion that at the next meeting, the Commission lay out its course of action for the next several meetings. Chair Foley suggested that the Final Report can set forth the differing views, if any, of the members of the Commission on various subjects, including their pros and cons. Chair Foley prefers that the Commission make recommendations, even if the recommendations are not adopted unanimously. Ultimately, it is the Legislature that will decide on the Commission's recommendations. Chair Foley remarked that all of these topics can be discussed at the July 13, 2022, meeting under agenda item "Other matters".

Commissioner Izumi-Nitao expressed a preference for an independent third party to conduct a study on public funding for campaigns so that any final proposal is strategic, well-tailored, and acceptable to the State so that it commits to the public funding program.

Appendix B – Meeting Minutes June 29, 2022

Chair Foley recommended that members of the Commission take note of ideas that seem to face no opposition and could be agreed upon by consensus by the Commission; these ideas could begin to be drafted into bills. Those bill drafts would then be presented to the Commission for consideration and public hearing.

The Commission's next meeting is scheduled for July 13 at 2:00 p.m. to discuss criminal prosecution and fraud.

The meeting adjourned at 3:35 p.m.