

**From:** [Rachael Wong](#)  
**To:** [Standards of Conduct](#)  
**Subject:** Testimony for 2 PM, June 29, 2022 Commission meeting [late]  
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Thank you for the opportunity to submit testimony with the Commission. Please see attached.

Written testimony submitted to the  
Commission to Improve Standards of Conduct  
for the June 29, 2022 meeting

Re: Increasing efficiency of systems

Chair Foley, Vice Chair Harris, and Commissioners Izumi-Nitao, Leverenz, Marumoto, Mason, and Nakakuni:

Thank you for your service on this commission, commitment to the values and embodiment of the Hawai'i state motto, and comprehensive, inclusive approach to improving legislative-related standards of conduct. The Commission discussed ethics, voting, and elections during the June 1st and 15th meetings, and your upcoming areas of focus include discussions on campaign finance reform, criminal prosecution and fraud, and open government laws.

All of the above topics are important to improving “standards of conduct among elected officials and employees as safeguards against the further erosion of public trust and confidence in government, with hopes that restoration and enhancement of public trust and confidence in governments will improve the legitimacy, quality, and effectiveness of government actions.”\* The converse might also be considered: Improving the legitimacy, quality, and effectiveness of government actions (and systems) can lead to improved standards of conduct among elected officials and employees and increase public trust in government.

I hope you will also have the time and opportunity to address standards of conduct from a foundational perspective: improving efficiency of systems. There are systemic issues and structures in place which lead to the conditions that result in imbalances of power (within the legislature, across the three branches of government, and in our democratic process) that, in turn, can create opportunities for unethical behavior.

I am writing as a private citizen who has represented the community, non-profits, and the state executive branch before the state legislature and who interacted and worked with legislators in these roles. The following are observations and recommendations from my own experience, including as a department director, and from listening and learning from others.

First, two quick, clarifying notes:

- The word, “government,” means different things to different people, and it’s often one big, abstract entity. Most local residents do not actively engage in the state legislative process—when “government” is used, they might not make the distinction between federal, state, and county systems and the judicial, executive, and legislative branches. It is helpful to clearly define what “government” means in Commission reports and recommendations (e.g., state legislature, all three branches of state government).
- [Frameworks Institute](#)’s research found that the word, “government,” carries negative connotations for many, and they suggest reframing by using the phrase, “public sector” [citation needed; this was from a conversation with the Frameworks team.] For the purposes of this testimony, I’m using “government” to be consistent with the Commission.

## Issue #1: Legislative Calendar

- Every four (4) or eight (8) years, a new governor is elected in November, inaugurated in December, and most of their Cabinet members start in January.
  - Because the executive branch budget and policy requests need to be finalized during the fall, new governors inherit their predecessors' budget and legislative packages. There is not enough time to fully craft their own packages based on their campaign statements and values. This runs counter to the idea of electing someone to bring their own ideas and policies to the table.
  - During this first session, new department directors often face steep learning curves—both for content and how systems work—and many of their interactions with Senators center on their confirmation process.
  - As a result of inherited packages, time spent ramping up, and a focus on confirmation hearings, there is so much lost potential in what might be achieved during a fully engaged legislative session because there is not a level “playing field.”
  - This first-year session is also the first half of a biennial session. By the second year, although the administration has a year under its belt and better knows its teams and the legislators, it is difficult to insert new budget and policy requests into the second half of the biennium packages that were not already there. Thus, more opportunities for anything new are lost, and the first two years of a four-year term are limited. This is not an efficient way to run “government,” and not many Hawai'i residents—those who all public sector workers serve—know about these limitations every four or eight years.
- The 60-day legislative session is short, filled with pressure and late nights, and usually ends in a flurry.
  - Such a short schedule often does not allow for a collaborative, thoughtful process that includes the three branches of government and the community, which is a goal of democracies.
  - This tight timeframe can lead to stress, fatigue, and burnout, which serves no one.
  - This environment can also contribute to taking the quickest paths (i.e., few people making decisions), disrespectful behavior, and unethical actions, which are a focus of the Commission.

Recommendation: Examine why, per the [Constitution of the State of Hawai'i](#) [Article III, Section 10], “[t]he legislature shall convene annually in regular session at 10:00 o'clock a.m. on the third Wednesday in January” and “[r]egular sessions shall be limited to a period of sixty days.”

- Assess whether the current legislative calendar—opens in mid-January with *sine die* in early May—best serves our state, which includes the three branches of government and, most significantly, the people of Hawai'i, and whether there are ways to increase efficiencies by changing the calendar.
- Examine whether a 60-day session best serves Hawai'i. Some states have no limits to the number of days they meet each year, and others have different calendars for even and odd years [see [NCSL](#)].
  - What might it look like to extend a regular session beyond 60 days (it can include longer breaks than what is currently delineated in the state constitution) to decrease some of the often-described “pressure cooker” nature of the current process?

- This might allow for more comprehensive and collegial discussions that shape policy, both within the legislature and with other branches of government, advocates/lobbyists, and constituents.
- It could also provide time for newer legislators to learn more about the process, issues, colleagues, and stakeholders. There could be more formal mentoring and professional development, including ongoing ethics training.
- There are advantages and disadvantages for legislatures meeting annually or biennially [see [Keefe and Ogul's list of arguments](#) on the National Conference of State Legislatures site].
  - What kind of session format and calendar would improve system efficiencies and best serve the state, which includes all three branches of government and, most significantly, the people of Hawai'i?
  - In a biennial session, for example, could the first half be used for discussion and the second for bill introduction and decision-making?
  - Do the first and second halves need to be the same length?
  - Does the legislature need to convene annually? Could it convene every other year? What are the pros and cons for all three branches of government and the people of Hawai'i?
- Explore moving Opening Day
  - What might be the advantages and disadvantages with moving Opening Day to a summer or fall date, for example, so that a new governor can submit her/his own packages and department directors are fully onboarded (i.e., so that first session is not "wasted")?
  - How would that affect legislators running for office that November?

## **Issue #2: Legislative Process**

- There is currently no limit to the number of bills introduced each session.
- There is also no requirement for each bill to be heard by committees.
- State departments, non-profits, and interested parties track relevant bills each session.
- For some state departments, this means tracking thousands of bills (including those that will never be heard).
  - For each tracked bill, the process often includes: content experts at the branch level review, make comments, and offer recommendations, this repeats at the division level, and then it's sent to the respective deputy attorneys general and the director's office.
  - After comments and recommendations are made (sometimes it has to go back and forth between the AG and director/division chief), the bill then goes back through the same people and maybe others for another review.
  - If the bill is scheduled for hearing, the process repeats with the department's drafted testimony. As the legislation moves through its committee hearings, this process repeats with each (revised) draft bill and also with its companion bill in the other chamber.
  - What this means: each bill results in hours and hours of executive branch members' time. All these hours take them away from all their other responsibilities. It means that the time clinical providers spend reviewing legislation and drafting testimony is time away from their clients, patients, and families.

- When bills are introduced and not heard, that is wasted time and impacts efficiency, programs, and direct care.

Recommendations:

- Limit the number of bills each legislator can introduce during a session.
- Make it a requirement that every introduced bill will be heard in a committee.
- Both recommendations will increase efficiencies for all branches of government and community entities and people who participate in the legislative process.
  - One goal is to flatten or equalize the playing field so that all legislators (and those for whom they introduce bills) are held to the same standards, rules, and processes.
  - It could contribute to balancing power within the state legislature and throughout the legislative process.
- These recommendations complement those others make about identification of for whom lawmakers sponsor bills, removing gut-and-replace, and more.

**Issue #3: How to make improvements**

- The creation of the Commission is significant because it represents the recognition that improvement to our legislature’s elected officials and employees’ conduct is necessary.
  - The Commission’s comprehensive approach is also significant because there is no singular change that will result in improved behavior.
  - A next step is the Legislature’s serious consideration and adoption of recommendations that come out of this group so that there is a chance for policy changes that come out of this process. It is important that the Commission’s thoughtful, inclusive, and deliberative work and recommendations lead to improved standards of conduct and actual conduct.
- Most of the recommendations offered in this testimony require changes to the state constitution. There are several ways to amend the constitution, and some involve more stakeholders in a democratic process than others:
  - The legislature can introduce and pass legislation to amend the constitution; it would then be placed on a statewide ballot for voters to decide.
  - Constitutional Convention (ConCon):
    - Every 10 years, voters are asked whether to hold one. We will not be asked again until 2028 comes up for our vote.
    - The legislature can also put on the ballot, “Shall there be a convention to propose a revision of or amendments to the Constitution?”
    - Many groups express great reluctance or opposition to holding another Constitutional Convention for different reasons. Some do not want to risk losing what was achieved in 1978, others are concerned about opening Pandora’s Box, and there is also the concern that those selected to be ConCon delegates represent the *status quo*.

Recommendation: Explore using the existing ways to put a clear, discrete question to voters.

- Rather than asking voters about whether to hold a ConCon, put something very specific on the ballot.
  - Define the scope.
  - Define the number of amendments or revisions.

- Identify who can serve as ConCon delegates (e.g., no current or former elected officials).
- This might look like: “Shall there be a convention to propose *no more than three* revisions of or amendments to the Constitution that specifically address efficiencies in and the structure of the Legislature [or three branches of state government]?”
- Make sure it is clear that such a ConCon would only focus on legislative or government structures and processes and not topics, areas, or issues. There would be no changes to anything except processes and policies related to government efficiencies.
- This might be a prototype that gives us (Hawai'i residents) a taste of democracy in action that results in improved processes and systems in our state government. If successful, this could provide a template for other ways to improve systems, policy, and processes within a defined scope.

All of these recommendations relate back to the Commission's stated goal in its Interim Report:

*Recognizing the need for public officials and employees to act with prudence, integrity, and high ethical judgment, the Commission seeks to improve standards of conduct among elected officials and employees as safeguards against the further erosion of public trust and confidence in government, with hopes that restoration and enhancement of public trust and confidence in government actions.\**

If the actual systems and processes that shape the legislature's structure are improved—with the focused goals of improving conduct, equalizing power, and increasing efficiency and outcomes always present—this can lead to greater confidence in the legislature by the public. If changes are made to better serve all of Hawai'i and done so by engaging residents in decision-making, then restoration of public trust and confidence in the legislative branch is part of the process.

Thank you for this opportunity to share ideas and possibilities. I am happy to participate in this process, answer questions, and discuss these and other ways to improve standards of conduct in the state legislature. I can be reached at the email address from which this testimony is submitted.

Sincerely,  
Rachael Wong, DrPH

\*[Interim Report of the Commission to Improve Standards of Conduct](#) (March 31, 2022)