

Commission to Improve Standards of Conduct

Dear Chairman Tarnas and Members of the Judiciary and Hawaiian Affairs Committee,

Thank you for the opportunity to comment on bills recommended to the House of Representatives (House) by the Commission to Improve Standards of Conduct (Commission). The origin and justification of these bills is extensively discussed in the Commission's December 1, 2022 Final Report (Report) submitted to the House pursuant to HR 9.

The bills recommended by the Commission are a package that would increase transparency and accountability in state and county government and help restore public trust in government which has been severely eroded in the past few years by highly publicized instances of corruption and misconduct in state and county government.

With that in mind, I would like to comment on all the Commission bills in this testimony and submit it for each bill for your consideration.

First, I would like to commend the House for creating the Commission. It has been an honor to carry out the mandate of the House and serve with the distinguished and learned members the House appointed to the Commission. The members of the Commission worked very hard over a period of nine months, reaching out to public officials, community leaders, experts in various fields within the Commission's mandate and held extensive public hearings in drafting the bills recommended to the House. These public hearings are summarized in the Report at 13-18 and Appendix B of the Report which contains the Commission's minutes of these public meetings. The notice of the Commission's meetings with a link to a video recording of each meeting and testimony submitted and documents considered at each meeting can be found at the House webpage's a link to the Commission under House Special Committees.

The following is the list of bills recommended by the Commission with brief summaries and citations to the relevant parts of the Commission's Report where they are discussed.

HB 705 – Requires each house of the Legislature to post a report of the legislative allowance expenditures for each member of the respective house on the Legislature's website. The purpose of this bill is to "increase transparency and ease of access to information related to expenditure of taxpayer monies." Report at 28.

HB 706 – Requires all members of the Legislature to disclose certain relationships with lobbyists or lobbying organizations in their financial disclosures. The purpose of this bill is to "increase transparency and potentially uncover conflicts or self-dealing." Report at 28.

HB 707 – Makes it a class C felony to make false, fictitious or fraudulent claims against the state or a county, or any of their department or agencies, disqualifying a person from holding elective public office for a period of 10 years upon conviction of making a false, fictitious or fraudulent claim. This bill is modeled after the federal false claims statute. Report at 21. This bill comes

with two others – HB 710 (false statement) and HB 711 (fraud) which are also modeled after federal statutes. Federal, state and county law enforcement officials testified before the Commission that state and county law enforcement need statutes as their federal counterpart have to root out corruption in state and county government rather than always relying on federal enforcement to do this job.

HB 708 – Amends the information in the statement of expenditures reports that lobbyists and other individuals are required to file with the State Ethics Commission to include the identity, by bill number, resolution number or other similar identifier, of the legislative or administrative action that was commented on, supported by or opposed by the person filing the statement. Report at 28. As with other bills in the Commission’s package, this bill would increase transparency and expose any potential conflict of interest.

HB 709 – Requires a lobbyist training course to be designed and administered by the State Ethics Commission, makes the training course mandatory for all lobbyists who are required to register and renew their registration with the State Ethics Commission. The Commission found “that more education and training can be done to ensure that lobbyists have notice of the law, understand the application of the law, and comply with legal requirements.” Report at 29.

HB 710 – Is modeled after the federal false statement statute by establishing a class C felony offense for a person who dealing with state or county government to knowingly or willfully falsifies, conceals or covers up a material fact; makes materially false, fictitious or fraudulent statement or representation; or makes or uses any false writing or document known to have materially false information; and disqualifies a person from holding public office for a period of 10 years upon conviction of making a false statement. Report at 20. As with HB 707 on false claims, federal, state and county law enforcement testified before the Commission this bill is necessary for state and county law enforcement to root out corruption and misconduct in state and county government rather than always relying on federal law enforcement to do this job.

HB 711 – Is the last of three bills recommended by the state and county law enforcement coalition and is modeled after the federal fraud criminal statute in making it a class B felony for a person to obtain financial benefit or other gain by means of false statements, misrepresentations, concealment of important information or deception, and prohibiting a person convicted of fraud from being a candidate for public office for a period of 10 years. Report at 20.

HB 712 – Would encourage public boards to maintain any electronic audio or visual recording of a board meeting as a public record on the board’s website regardless of whether written minutes of the meeting have been posted and to submit a copy of the recording to the State Archives. Report at 27. A similar bill in the last regular session of the Legislature was supported by the Commission, passed by the Legislature but vetoed by the Governor (SB 3172, SD 1, HD 2, CD 1). Report at 10. The Commission has attempted to address the concerns raised by the Governor in this bill.

HB 715 – Prohibits lobbyists from making prohibited gifts to legislators and state employees with administrative fines imposed for violations. Report at 33.

HB 716 – Requires the Office of Elections to prepare a voter information guide to educate voters on each candidate’s positions and their candidate statements and provide ballot question analyses and appropriates funds for the preparation and distribution of guides and analyses. The Commission found “Hawaii’s voter turnout is well below the national average for each election” and “registered voters may not have access to or be aware of information on the candidates or issues on the ballots.” Report at 34.

HB 717 – Prohibits under certain circumstances legislators and state employees from hiring or promoting relatives or household members and from making or participating in certain other employment-related decisions and from awarding a contract to or otherwise taking official action on a contract with a business if the legislator’s or employee’s relative or household member is an executive officer of or holds a substantial ownership interest in the business, and imposing administrative fines for violations. Report at 29.

HB 718 – Authorizes the Campaign Spending Commission to serve preliminary determinations of probable cause via first class mail instead of certified mail, establishes a presumption of receipt when mailed to the address contained in a candidate or committee organizational report. Report at 21.

HB 719 – Imposes a cap on charges for the reproduction of certain government records; waives the cost of duplication of government records provided to requestors in electronic format; imposes a cap on charges for searching for, reviewing and segregating records; provides a waiver of fees when the public interest is served by record disclosure; and appropriates funds to carry out the provisions of this act. Report at 27. A similar bill was supported by the Commission and passed by the Legislature last regular session (SB 3252, SD2, HD2, CD1) and vetoed by the Governor. Report at 10. The Commission has attempted in this bill to address concerns raised by the Governor.

HB 720 – Increases the amount of partial public financing available for all offices up for election in varied amounts with a downward adjustment of the minimum amounts of qualifying contributions for county prosecuting offices. The Commission noted “that increased amounts of partial public funding of elections proposed in this bill are intended as a floor, or a minimum level. If fiscal resources are or become available, the Commission encourages the Legislature to be bold and devote additional fiscal resources to further the purpose of this bill and to seek additional permanent funding sources for future elections. Implementation of this proposal would assist in diminishing the impact and influence resulting from Citizens United.” Report at 32.

HB 721 – Eliminates the use of campaign funds to purchase up to two tickets for an event or fundraiser held by another candidate or committee. The Commission found “that this practice is commonplace amongst legislators and gives the appearances of impropriety since the

campaign funds of the purchaser/candidate are likely contributions made to the purchaser/candidate and not to the candidate holding the event or fundraiser.” Report at 33-34.

HB 722 – Expands the reach of the requirement to file a notice of intent to hold a fundraiser or fundraiser event by removing the current \$25 threshold. The Commission stated this bill would further public transparency and improve public confidence in campaigns. Report at 33.

HB 723 – Expands application of the Sunshine Law to legislatively appointed bodies, including task forces, working groups, special committees, and select committees. This bill would also require each chamber of the legislature to hold public hearings on its rules on a biennial basis. The Commission concluded given “the strict legislative timetable and deadlines mandated under Article III of the Hawaii State Constitution” it was not practical to apply the Sunshine Law to the Legislature. This bill would “better effectuate the spirit and intent of the Sunshine Law.” Report at 26.

HB 724 – Amends the prohibition against contributions to a candidate committee or noncandidate committee by state and county contractors by including state and county grantees and owners, officers and immediate family members of a state or county contractor or state or county grantee. Report at 33.

HB 725 – Establishes the Office of Public Advocate and codifies rights of the public with respect to the conduct and operation of the Legislature and its members. This bill would also specify procedures for the investigation and reporting of alleged violations of the public’s rights. “The Commission offers this proposal as an aspirational starting point for how the public and legislators can best engage with each other in a respectful and transparent manner during the legislative process. Collectively, the 13 rights of the public embody ideals of respect, fairness, openness, and dignity in the legislative process. The rights also require that official legislative business be conducted in a transparent and honest manner and that decisions be based on the merits of the legislation.” Report at 26-27.

HB 726 – Prohibits state and county elected officials from soliciting and accepting campaign contributions during any regular or special session of the Legislature, including any legislative recess days, holidays and weekends. This bill if enacted “would reduce the negative perception of legislators soliciting or accepting contributions from individual or organizations that have an interest in matters pending before the legislature during session.” Report at 32.

HB 727 – Limits the permitted uses of campaign funds to only those purposes that are directly related to the campaign of candidates. Report at 33.

HB 728 – Provides funds to county ethic boards “in an effort to ensure that these boards have adequate resources to continue their operations and pursue their respective missions.” Report at 30.

HB 729 – Requires the Campaign Spending Commission to publish on its website the names of candidate committees and noncandidate committees who fail to properly file an organizational report. The Commission found that this bill “would improve compliance and also bring awareness of noncompliance to the public.” Report at 28.

HB 730 – Limits the amount of cash contributions a candidate, candidate committee or noncandidate committee can accept in the aggregate in each election period to \$100 with a receipt required for each contribution. Report at 33.

HB 731 – Provides that a person waives the right to a contested case hearing if that person fails to request a contested case hearing within 20 days of the Commission’s preliminary determination. It would also allow the Campaign Spending Commission to file its final order with the Circuit Court of the First District for confirmation as a civil judgment, enforceable and collectible as any other judgment issued in circuit court. Report at 21.

HB 732 – Authorizes the Campaign Spending Commission to presume that a violation of a campaign spending law has occurred if a respondent fails to explain or otherwise respond to a complaint alleging a campaign spending violation. Report at 21.

HB 733 – Increases the amount of fine for campaign spending law violations that may be assessed against a noncandidate committee making only independent expenditures and that has received at least one contribution of more than \$10,000 or spent more than \$10,000 in an election period. It authorizes the Campaign spending Commission to order that the payment of a fine assessed against a noncandidate committee, or any portion thereof, be paid from the personal funds of an officer of the noncandidate committee. Report at 34.

HB 796 – Proposes a constitutional amendment to prohibit a person from serving as a member of the Legislature for more than 16 years during that person’s lifetime. “The Commission discussed this proposal at great length and considered the testimony received and personal viewpoints of each commissioner. The Commission looked at similar provisions for guidance and debated the well-balanced pros and cons of this proposal, which was reflected in the slim 4-3 margin by which the Commission adopted the motion to adopt this proposal.” Report at 35. Despite a turnover in the House of Representative of over 50% and the Senate of more than 33% in the last decade, “people feel a proposal like this is necessary and that a limit on the duration of holding state elected office may reduce the potential for corruption and allow for the periodic infusion of fresh ideas and services to constituents.” Id.

A handwritten signature in black ink that reads "Daniel R. Foley". The signature is written in a cursive, flowing style with a large, stylized 'F' at the end.

Respectfully submitted, Judge Daniel Foley (ret.)



HAWAI'I STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i

Committee: House Committee on Judiciary & Hawaiian Affairs
Bill Number: HB 715
Hearing Date/Time: February 22, 2023, 2:00 p.m.
Re: Testimony of the Hawai'i State Ethics Commission in **SUPPORT** of
HB 715, Restricts Lobbyists from Giving Prohibited Gifts

Aloha Chair Tarnas, Vice Chair Takayama, and Committee Members:

The Hawai'i State Ethics Commission ("Commission") **supports** H.B. 715, which imposes the same gifting regulations on lobbyists that are already in place for state employees, legislators, and board and commission members.

This measure makes no changes to Hawaii's existing gift law, Haw. Rev. Stat. § 84-11, except to impose a gifting restriction on lobbyists. If passed, this measure would preclude lobbyists from giving a prohibited gift. Existing prohibitions and exceptions to the gift law would remain the same.

The intent of this measure is to lessen the number of situations where a legislator or employee must refuse a prohibited gift. The Commission would use this measure as an opportunity to better educate the lobbying community about the gift law and seek a more uniform application. To the extent new exceptions are administratively created over time, this measure wisely incorporates those changes.

Mahalo for the opportunity to submit testimony on HB 715.

Very truly yours,

/S/ Robert D. Harris
Robert D. Harris
Executive Director and General Counsel



Committee on Judiciary & Hawaiian Affairs
Chair David A. Tarnas, Vice Chair Gregg Takayama

Wednesday, February 22, 2023, 2:00 p.m. and Conference Room 325
HB715 — Relating to Gifts from Lobbyists

TESTIMONY

Judith Wong, Legislative Committee, League of Women Voters of Hawaii

Chair Tarnas, Vice Chair Takayama, and Committee Members:

The League of Women Voters of Hawaii supports BILL NUMBER HB715

This bill prohibits gift from lobbyists to public decision-makers. The public reasonably expects its legislators to act in the public interest and not in the interest of any particular interest group. It is in the public interest to know that legislators and other public decision-makers are not influenced by gifts from lobbyists.

Thank you for the opportunity to submit testimony.

HB-715

Submitted on: 2/21/2023 9:14:08 AM

Testimony for JHA on 2/22/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Gary Hooser	Pono Hawaii Initiative	Support	Written Testimony Only

Comments:

Committee Chair and Members,

Please accept this testimony in strong support of HB715.

HB715 - RELATING TO RECORDINGS OF PUBLIC MEETINGS. Encourages boards to maintain any electronic audio or visual recording of a board meeting as a public record on the board's website regardless of whether the written minutes of the meeting have been posted. And other...

Note: This measure should be amended to ban all gifts from lobbyists to public officials and officers - period. By legal HRS definition, a lobbyist is paid to influence lawmakers and government administrators. Any gift provided by a lobbyist is intended to influence the recipient, both in small ways to curry goodwill or in large ways to sway a vote. Thus all gifts should be banned.

HB715 is part of a package of bills being proposed by the Commission to Improve Standards of Conduct (CISC) which was established by a unanimous vote in the State House of Representatives.

Please offer your strong support for all of the CISC recommendations on your agenda today as well.

Sincerely,

Gary Hooser

Pono Hawaii Initiative



Testimony of the Democratic Party of Hawai'i
Legislative Committee, Democratic Party of Hawaii
HB 715 – Relating to Financial Disclosures
House Committee on Judiciary & Hawaiian Affairs
Tuesday, February 22, 2023, at 2:00 PM, Conference Room 325 & Videoconference

Dear Chair David Tarnas, Vice Chair Gregg Takayama, and members of the Committee:

Thank you for the opportunity to provide testimony in support of HB 715, which would prohibit lobbyists from making prohibited gifts to legislators and state employees.

The Democratic Party of Hawaii supports the work of the Commission to Improve Standards of Conduct, which was established by House Resolution No 9 (2022). The Democratic Party of Hawaii's Legislative Committee supports the proposals submitted by the Commission in general. We should therefore enact laws and rules that restore and strengthen public trust in our government institutions and its public officers or officials. This measure would be another step toward eliminating public corruption as well as improve transparency, and overall good government.

The Democratic Party of Hawai'i, Legislative Committee, therefore supports this measure and urges the committee to adopt HB 715.

HB-715

Submitted on: 2/17/2023 8:09:08 PM

Testimony for JHA on 2/22/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Kate Paine	Individual	Comments	Written Testimony Only

Comments:

Again, a bill only overlays a practice that shouldnt even need drafting if y'all citizen representatives did actually represent as paid to. Sorry condition of current gvmnt.

HB-715

Submitted on: 2/17/2023 4:33:17 PM

Testimony for JHA on 2/22/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Dana Keawe	Individual	Support	Written Testimony Only

Comments:

support

HB-715

Submitted on: 2/17/2023 10:06:59 PM

Testimony for JHA on 2/22/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Leimomi Khan	Individual	Support	Written Testimony Only

Comments:

The provisions of this bill are the result of the work of the commission to improve standards of conduct. I support their recommendations which were derived from and vetted in public hearings. Please support this bill.

HB-715

Submitted on: 2/20/2023 10:37:15 AM

Testimony for JHA on 2/22/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
lynne matusow	Individual	Support	Written Testimony Only

Comments:

This bill exemplifies how much trust has been lost in government when you need a bill to prohibit lobbyists from making prohibited gifts. Please move this bill on.

HB-715

Submitted on: 2/21/2023 7:53:22 AM

Testimony for JHA on 2/22/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Hunter Heavilin	Individual	Support	Written Testimony Only

Comments:

As a registered lobbyist, I support HB715 to prohibit lobbyists from making prohibited gifts to legislators. Additionally, the imposition of administrative fines for violations ensures that lobbyists are held accountable for their actions and that there are consequences for any attempt to improperly influence our elected officials or state employees.

I strongly support HB715 and urge our legislators to take action to pass this important legislation to help ensure that our government institutions remain focused on serving the public interest, and that our political process remains transparent, accountable, and free from undue influence.

HB-715

Submitted on: 2/21/2023 8:42:10 AM

Testimony for JHA on 2/22/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Shannon Rudolph	Individual	Support	Written Testimony Only

Comments:

Support

HB-715

Submitted on: 2/21/2023 1:14:26 PM

Testimony for JHA on 2/22/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Greg Misakian	Individual	Support	Written Testimony Only

Comments:

My name is Greg Misakian and I support HB715.

HB-715

Submitted on: 2/22/2023 11:32:43 AM

Testimony for JHA on 2/22/2023 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Minister, Hector Hoyos (aka) SisterFace	Individual	Support	Written Testimony Only

Comments:

I loudly support this and any future bill. I will support that makes transparency 100% better than it was is always a good thing all too often we find that our own politicians excuse me you are will not stop taking from the till and have been persuaded through history to sway a lawmakers mind, and, sometimes from what a law maker excepts from a lobbyist is a sign of what the law maker or who the law maker is really working for which might not mean the people of the state of Hawaii, so this is important for the public to know, and for lobbyist to be controlled legally so no one messes up I support this bill