

**HB-91**

Submitted on: 1/30/2023 3:22:38 PM

Testimony for JHA on 2/1/2023 2:00:00 PM

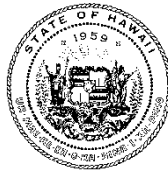
<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
daniel foley	Commission to Improve Standards of Conductone	Support	Written Testimony Only

Comments:

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

As Chair of the Commission to Improve Standards of Conduct (Commission), I support this bill that would publish the names of candidate and noncandidate committees that fail to file organizational reports for reasons stated in the Commission's December 1, 2022 final Report filed with the House of Representatives, specifically found at page 28.

Judge Daniel Foley (ret.)



STATE OF HAWAII  
CAMPAIGN SPENDING COMMISSION

235 SOUTH BERETANIA STREET, ROOM 300  
HONOLULU, HAWAII 96813

January 30, 2023

TO: The Honorable David A. Tarnas, Chair  
House Committee on Judiciary & Hawaiian Affairs

The Honorable Gregg Takayama, Vice Chair  
House Committee on Judiciary & Hawaiian Affairs

Members of the House Committee on Judiciary & Hawaiian Affairs

FROM: Kristin Izumi-Nitao, Executive Director  
Campaign Spending Commission

SUBJECT: **Testimony on H.B. No. 91, Relating to Orders of the Campaign Spending Commission**

Wednesday, February 1, 2023  
2:00 p.m., Conference Room 325 & Videoconference

Thank you for the opportunity to testify on this bill.<sup>1</sup> The Campaign Spending Commission (“Commission”) supports this bill.

This measure amends HRS §11-410 by (1) amending subsection (b) to provide that a person waives the right to a contested case hearing if the person fails to request a contested case hearing within twenty days of receipt of the Commission’s preliminary determination, and (2) amending subsection (d) to provide that a final order of the Commission may be filed in the First Circuit Court for confirmation as a civil judgment, enforceable and collectible as any other judgment issued in the circuit courts, provided that there shall be no appeal from a judgment issued pursuant to subsection (d).

The final orders that are confirmed as judgments under subsection (d) are only those orders that are rendered final because the respondents have failed to request a contested case hearing pursuant to HRS §11-405(b). These final orders are not appealable to the Circuit Court since the respondents would have failed to exhaust the administrative process and thus no evidentiary record would exist to perfect an appeal. Further, if a final order is confirmed as a judgment under subsection (d), any respondent would have the right to seek collateral relief from the judgment under Rule 60(b)<sup>2</sup>, Hawaii Rules of Civil Procedure. If relief is granted, the Circuit

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<sup>1</sup> The companion bill is S.B. No. 196.

<sup>2</sup> Rule 60 provides for relief from a judgment or order as follows:

Court would most likely refer the case back to the Commission for a contested case hearing, rather than decide the case at that time as an agency appeal because of the lack of an evidentiary record that a contested case hearing would provide.

These amendments were suggested by the deputies in the Civil Recoveries Division of the Department of the Attorney General who are assisting the Commission by enforcing the Commission's orders in the First Circuit Court. There have been up to fifteen candidates referred to that office for enforcement of Commission orders who have repeatedly violated campaign finance law by not filing reports thereby compounding the violations (<http://ags.hawaii.gov/campaign/cc/notice/>). As the law now stands, there is no option to collect fines as a money judgment. The Attorney General's Office has been forced to seek bench warrants with bail up to \$500 to compel payment of fines and the filing of reports; meanwhile, the Commission carries these candidates as they repeatedly violate campaign finance law by not filing subsequent reports.

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**(b) Mistakes; inadvertence; excusable neglect; newly discovered evidence; fraud, etc.**

On motion and upon such terms as are just, the court may relieve a party or a party's legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether heretofore denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied, released, or discharged, or a prior judgment upon which it is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application; or (6) any other reason justifying relief from the operation of the judgment. The motion shall be made within a reasonable time, and for reasons (1), (2), and (3) not more than one year after the judgment, order, or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court. Writs of coram nobis, coram vobis, audita querela, and bills of review and bills in the nature of a bill of review, are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

**HB-91**

Submitted on: 1/31/2023 4:47:34 PM

Testimony for JHA on 2/1/2023 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Testify</b>
Ingrid Peterson	Individual	Support	Written Testimony Only

Comments:

Aloha Committee Members!

Please support this bill because we need as many good anti-corruption reform bills passed as possible this session for the good of Hawaii and its people and to restore trust in the legislature. We cannot keep on going as we have. Too many important issues for our future are at stake.

I am a 68-year-old who moved to Hawaii as a child in 1963 and became politically active as a teen before I could even vote. I have always voted since, and I never give up hope for improvement in our democracy. Please kokua,

with warm aloha,

Ingrid Peterson