



STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

235 SOUTH BERETANIA STREET, ROOM 300
HONOLULU, HAWAII 96813

March 13, 2023

TO: The Honorable Karl Rhoads, Chair
Senate Committee on Judiciary

The Honorable Mike Gabbard, Vice Chair
Senate Committee on Judiciary

Members of the Senate Committee on Judiciary

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

SUBJECT: **Testimony on H.B. No. 724, Relating to Campaign Contributions.**

Tuesday, March 14, 2023
09:30 a.m., Conference Room 016 & Videoconference

Thank you for the opportunity to testify on this bill, which was submitted by the Commission to Improve Standards of Conduct ("CISC"). The Campaign Spending Commission ("Commission") supports this bill.

This bill amends Hawaii Revised Statutes ("HRS") §11-355 by extending the ban on contributions from state and county contractors to the owners and officers of the contractor and their immediate family. It is common for contractors, the Commission believes, to get around the ban by having those persons connected to the contractor make political contributions. A few of these situations also involved false name contributions where the contributors were reimbursed for their contributions. This bill also extends the ban to grantees of the state and counties, and the owners and officers of the grantee, and their immediate family. Grantees, similar to contractors, receive state funds and thus should be treated similarly in the context of political contributions. This bill will prevent the corruption, or at least the appearance of corruption, of elected officials.

The House Committee on Judiciary & Hawaiian Affairs ("JHA") deferred the Commission's version of this bill (H.B. No. 96) on February 1, 2023. H.B. No. 96 extended the ban on contributions to the **employees** of the state or county contractor or grantee, which JHA determined to be overly broad. The CISC version does not include the employees. The Commission requests that this Committee pass this bill.



Committee on Judiciary
Chair Karl Rhoads, Vice Chair Mike Gabbard

Tuesday, February 14, 9:31 am Room 016 & Videoconference
HB 724 — RELATING TO CAMPAIGN CONTRIBUTIONS

TESTIMONY

Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair Rhoads, Vice Chair Gabbard, and Committee Members:

The League of Women Voters of Hawaii supports HB724 which amends the prohibition against contributions to a candidate committee or noncandidate committee by state and county contractors to include state and county grantees and the owners, officers, and immediate family members of a state or county contractor or state or county grantee.

The League of Women Voters believes that the methods of financing political campaigns should protect representative democracy from being distorted by big spending in election campaigns, and combat corruption and undue influence in government.

We note that the Commission to Improve Standards of Conduct recommended this extension of the law prohibiting campaign contributions by state and county contractors.

Anyone who has studied the Campaign Spending Commission's database on contributions to politicians or candidates will have noted that multiple donations by apparently related individuals (i.e. family members) are often made almost simultaneously with contributions by a (presumed) family member who owns or directs a business. Anyone who has taken the time to look at the websites of contributing businesses has seen examples of individuals who are officers or employees of

contributing business making similar almost simultaneous donations to the same politician or candidate. Such multiple donations subvert CSC limits on amounts which can be donated by one entity. Equally troubling is the suspicion that these multiple contributions by individuals associated with one business or organization are an attempt to influence the awarding of contracts or grants.

HB724 will prevent this kind of apparent attempt to corrupt the decisions of state or county representatives. Please pass HB724.

Thank you for the opportunity to submit testimony.

HB-724

Submitted on: 3/10/2023 4:30:12 PM

Testimony for JDC on 3/14/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Andrew Crossland	Individual	Support	Written Testimony Only

Comments:

I support this Bill.

Commission to Improve Standards of Conduct

Dear Mr. Chairman and members of the Judiciary Committee,

Thank you for the opportunity to comment on HB 724 proposed by the Commission to Improve Standards of Conduct (Commission). The origin and justification of this bill and other bills proposed by the Commission are extensively discussed in the Commission's December 1, 2022 Final Report (Report) found on the House of Representatives website under Special Committees.

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. HB 724 is part of this package and would contribute to this goal by amending the law that prohibits contributions to a candidate committee or noncandidate committee by state and county contractors to include state and county grantees and owners, officers and immediate family members of a state or county contractor or state or county grantee. Report at page 33.

Many of the Commission bills are the same or similar bills proposed by the State Ethics and Campaign Spending Commissions. Some of the Commission's bills were deferred in the House because the House had already passed the State Ethics or Campaign Spending Commission bill of the same content. The Three Commissions worked together in drafting these bills. I am grateful to your committee for hearing and passing many of these bills to date. HB 724 is the first House Bill you are hearing that was introduced at the request of the Commission, so I take this opportunity to briefly comment not only on HB 724 but the package of bills introduced in the House at the request of 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 and now to the Senate. 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:

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

I deeply appreciate the time, consideration and action you have taken on Senate and House bills proposed by the State Ethics Commission, Campaign Spending Commission and the Commission to Improve Standards of Conduct. Your actions this session will significantly contribute to greater transparency and accountability in state and county government and help restore public trust in government.

A handwritten signature in black ink that reads "Daniel R. Foley". The signature is written in a cursive style with a large, sweeping 'D' and a long, trailing 'y'.

Respectfully submitted, Judge Daniel Foley (ret.)

HB-724

Submitted on: 3/12/2023 9:49:26 AM

Testimony for JDC on 3/14/2023 9:30:00 AM

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

Comments:

This will help clean up government. Prohibiting state and county grantees and the owners, officers, and immediate family members of a state or county contractor or state or county grantee from making campaign contributions closes a major loophole in the law and must be enacted.

Lobbyists, contractors, etc. should not be running government, behind or in front of the scene.

HB-724

Submitted on: 3/12/2023 12:47:11 PM

Testimony for JDC on 3/14/2023 9:30:00 AM

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

Comments:

Support

HB-724

Submitted on: 3/12/2023 5:18:31 PM

Testimony for JDC on 3/14/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Marilyn Mick	Individual	Support	Written Testimony Only

Comments:

Aloha, Under Hawai'i's existing campaign finance law, only a state or county contractor is prohibited from making campaign contributions. However, owners, officers, employees, and family members of the contractor can still make contributions, including false name contributions, to election campaigns.

Furthermore, state and county grantees are currently able to make campaign contributions, even though these entities receive funds that have been appropriated by a legislative body, similar to state or county contractors.

While extreme examples of outright bribery may have led to the creation of the commission to improve standards of conduct, it is the more subtle, pervasive "pay-to-play" loopholes like this one allow that have long been the bigger corruption problem for Hawai'i.

While there are other ways for donations to influence politicians, closing this loophole is a good step toward reducing the potential for donations to unduly influence policymaking. Legislative decisions that impact all our lives should always be made with the best interests of the public at heart, not the interest of a few well-connected donors or their special interests. Please support HB724.

Mahalo, Marilyn Mick, Honolulu

HB-724

Submitted on: 3/13/2023 9:55:10 AM

Testimony for JDC on 3/14/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Will Caron	Individual	Support	Written Testimony Only

Comments:

Under Hawai‘i’s existing campaign finance law, only a state or county contractor is prohibited from making campaign contributions. However, owners, officers, employees, and family members of the contractor can still make contributions, including false name contributions, to election campaigns.

Furthermore, state and county grantees are currently able to make campaign contributions, even though these entities receive funds that have been appropriated by a legislative body, similar to state or county contractors.

While extreme examples of outright bribery may have led to the creation of the commission to improve standards of conduct, it is the more subtle, pervasive “pay-to-play” loopholes like this one allow that have long been the bigger corruption problem for Hawai‘i.

While there are other ways for donations to influence politicians, closing this loophole is a good step toward reducing the potential for donations to unduly influence policymaking. Legislative decisions that impact all our lives should always be made with the best interests of the public at heart, not the interest of a few well-connected donors or their special interests. Please support HB724. Mahalo.

LATE

HB-724

Submitted on: 3/14/2023 4:15:39 PM

Testimony for JDC on 3/14/2023 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Gerard Silva	Individual	Oppose	Written Testimony Only

Comments:

To many Crooks Now . We do not need More!!!!