

BILL033(23)
Testimony

MISC. COMM. 287

COUNCIL

COUNCIL Meeting

Meeting Date: Jun 7, 2023 @ 10:00 AM

Support: 4

Oppose: 23

I wish to comment: 4

Name: Jun Look	Email: junlook@yahoo.com	Zip: 96826
Representing: Self	Position: Oppose	Submitted: Jun 1, 2023 @ 06:59 PM
<p>Testimony: This idea of restricting outside employment while serving on the council needs more time for public hearings. It is not the right answer to this problem of excessive salary increase. Please table this Bill for now.</p>		
Name: Jill Paulin	Email: jillpaulin@gmail.com	Zip: 96712
Representing: Self	Position: Support	Submitted: Jun 3, 2023 @ 08:25 AM
<p>Testimony: Aloha,</p> <p>I support this measure to prohibit outside employment for our Council Members. The role of Council Member has long been a full-time position as evidenced by the heavy workload often including weekends and evenings. Having worked with many Council Members, it is very obvious that the job cannot be done on a part-time basis. To try and do so would put that District's residents at a big disadvantage. The media blew this issue out of context by calling the salary adjustments "raises". They are not raises, but rather adjustments from the outdated part-time salaries to the realistic full-time jobs. These are very important roles in the stewardship of our island. The Salary Commission's findings were accurate in that we must pay for the work done. Please support this measure to prohibit outside employment.</p> <p>Mahalo,</p> <p>Jill Paulin Haleiwa, HI</p>		
Name: Neil Frazer	Email: neilfrazer@icloud.com	Zip: 96734
Representing: Frazer-Frantz family hui	Position: Support	Submitted: Jun 3, 2023 @ 02:18 PM
<p>Testimony: Aloha Chair Waters and Council Members,</p> <p>Mahalo to Chair Waters and Council Member, Kia'aina and Waters for introducing this bill [Bill 033(23)].</p> <p>My family and I strongly support this bill. However, we would like to point out that it does not go far enough. For the five-year period after leaving office, no mayor or council member should be allowed to work or consult for any for-profit enterprise doing business with the City.</p> <p>Mahalo for your unselfish service to the people of O'ahu.</p> <p>Sincerely, Neil Frazer</p>		
Name: lynne matusow	Email: lynnehi@aol.com	Zip: 96817
Representing: Self	Position: Oppose	Submitted: Jun 4, 2023 @ 10:45 AM
<p>Testimony: in strong opposition. nothing like trying to justify enriching your bank accounts by prohibiting outside employment. i do not believe any of the other counties has this provision. you are setting a precedent and going down a slippery slope. you have enraged the taxpayers. those of you who support the 64% increase should resign and let others who are willing to accept what your</p>		

predecessors did take your place. regardless of protestations, waters says councilmembers should not be voting on their own salaries. but, to move this forward they are. shame on you. i never received a 64% increase. i don't know anyone who has.

Name: Caro W	Email: Overtaxed808@gmail.com	Zip: 96782
Representing: Self	Position: Oppose	Submitted: Jun 5, 2023 @ 08:55 AM

Testimony:
I oppose bill 33, do not discuss or pass at this time. Settle the public controversy surrounding the REAL ISSUES first!!

Your job is to recognize the PUBLIC'S INTEREST as YOUR PRIMARY CONCERN. Your self-absorbed ways will only go so far, you are all in VIOLATION of Section 11-101 of the city charter.

The unreasonable 64% raises need to be addressed properly first and foremost!

Name: Michael McCurdy	Email: hammajang@hawaii.rr.com	Zip: 96789
Representing: Self	Position: Oppose	Submitted: Jun 5, 2023 @ 08:58 AM

Testimony:
This matter should be decided by C&C citizens via a proposed amendment to the City Charter at the general election of fall 2024, e.g., via Res 23-109. All costs, including salaries, fringe benefits, staff support, etc. should be disclosed.

Name: Fenton Lee	Email: sugar.chef@icloud.com	Zip: 96822
Representing: Self	Position: Oppose	Submitted: Jun 5, 2023 @ 09:45 AM

Testimony:
I Fenton Lee am in opposition to Bill 33(2023). It is a violation of Hawaii State Constitution and suppresses the rights of all citizens. If the job is more than what you expected, you can choose to resign at anytime.

Name: Winona Lee	Email: winona.lee10@yahoo.com	Zip: 96822
Representing: Self	Position: Oppose	Submitted: Jun 5, 2023 @ 10:24 AM

Testimony:
I oppose bill 33(2023) Outside Employment.

Those voted in to office to serve needs to dedicate their time to the constituents and not go out looking for other employment as they are paid for their duties. Be committed to your constituents and your duties as they have put their trust in you that you can make clear and sound decisions with a clear mind. Any job outside is a distraction Be a leader and listen to "We the People"! Thank you

Name: Brett Kulbis	Email: brett.kulbis@use.startmail.com	Zip: 96706
Representing: Self	Position: Oppose	Submitted: Jun 5, 2023 @ 05:11 PM

Testimony:
Dear Chair Waters, Vice Chair Kia'ina, and members of the committee.

My name is Brett Kulbis and I live in Ewa Beach, and I am testifying today in OPPOSITION of agenda item Bill 33 (Relating to outside employment).

Voters are not fooled, this is an attempt after the fact to justify approval of the Salary Commissions 64% proposed pay raise.

I strongly urge this council vote no on Bill 33.

Name: Zhizi Xiong	Email: Alohavinedesign@gmail.com	Zip: 96817-2707
Representing: CARES Community Advocacy Research Education Services	Position: Support	Submitted: Jun 5, 2023 @ 09:25 PM

Name: Karen Luke	Email: nahele@yahoo.com	Zip: 96706
Representing: Self	Position: Oppose	Submitted: Jun 5, 2023 @ 11:12 PM

Testimony:
I oppose full-time employment. When candidates are willing to spend nearly a half million dollars for votes to gain a council seat that pays \$68,904 for a part-time job, there is a reason. Follow the money. Also, while in office, the representatives are not obligated to go to neighborhood board meetings. They have staff to help, but many attend personally, and this brings in votes for the next run. Only a few council members run for office and truly represent their people.

Name: Maya Nouchi	Email: mayakawaguchi@yahoo.com	Zip: 96701
Representing: Self	Position: Oppose	Submitted: Jun 5, 2023 @ 11:32 PM

Testimony:
I oppose this bill because it does not address the real issue, and it seems to be vindictive in nature — aimed at 2 council members who publicly opposed the 64% raise. The real issue is whether or not the public supports a 64% raise for council members. Public outrage and outcry over the 64% raises clearly demonstrates that the public is overwhelmingly opposed to such a large raise, but Chair Waters is attempting to shift the discussion to one of outside employment to distract from the public concern. This bill is a targeted attack on council members who stood up for the public interest, and it should not be passed.

Name: Marla-Jayne Carino	Email: mcarino005@gmail.com	Zip: 96792
Representing: Self	Position: Oppose	Submitted: Jun 6, 2023 @ 05:58 AM

Testimony:
I oppose Bill033, because I feel you folks are trying to pass this Bill for 2 reasons, 1 to justify your 64% pay raise, and 2 to get back at Augie T. For speaking out against this ridiculous pay hike, Augie has been in office for the past 3 years learning and getting out in the coummity, helping "We The People" with our wants, needs, and sharing truth about wants going on in our state, he asks us how " We The People " feel on matters that come up so as to represent us better! So with that being said, I feel he has done a fantastic job thus far with a 2nd job, so I am gonna have to oppose Bill033! Thank You, Marla-Jayne Carino

Name: Adriel Lam	Email: adriel.lam@outlook.com	Zip: 96744
Representing: Self	Position: Oppose	Submitted: Jun 6, 2023 @ 09:16 AM

Testimony:
This bill is illegal and requires an amendment to the Charter. Councilmember positions are part-time and prohibition of outside employment is a violation of the Charter.

Does prohibition of outside employment also pertain to other sources of revenue, gifts, donations, or other source of funds, or promise of funds not otherwise transacted within the legislative year?

This prohibition effectively makes the Councilmember position a full-time position, with a 64% pay increase, an end run around the Charter. I am opposed to Bill 33.

Name:	Email:	Zip:
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Donald Sakamoto	cylonone@aol.com	96744
Representing: Self	Position: Oppose	Submitted: Jun 6, 2023 @ 11:14 AM
Testimony: I will provide oral testimony in opposition to Bill 33 prohibition of outside employment for Councilmembers.		
Name: Adriel Lam	Email: adriel.lam@outlook.com	Zip: 96744
Representing: Self	Position: Oppose	Submitted: Jun 6, 2023 @ 11:17 AM
Testimony: I will provide oral testimony in opposition to Bill 33 prohibition on outside employment in addition to written testimony already submitted.		
Name: Adriel Lam	Email: adriel.lam@outlook.com	Zip: 96744
Representing: Self	Position: Oppose	Submitted: Jun 6, 2023 @ 11:20 AM
Testimony: I will provide oral testimony in addition to previously submitted written testimony in opposition to Bill 33 prohibition of outside employment.		
Name: Ed Jones	Email: honolulu@paradiseip.com	Zip: 96825
Representing: Self	Position: Oppose	Submitted: Jun 6, 2023 @ 08:14 PM
Testimony: Aloha Chair Waters, We have a citizen government. Members have careers before they begin service and may continue after completion. It may be law, teaching, or acting. Practice builds excellence. What they do on their own time is not the business of the city. Mahalo for the opportunity to testify. Edward Jones		
Name: Teresa Parsons	Email: tapanc06@gmail.com	Zip: 96744
Representing: Self	Position: Oppose	Submitted: Jun 6, 2023 @ 09:24 PM
Testimony: Most people in Hawai'i have to hold 2 jobs to make ends meet. This is a ridiculous requirement for PART TIME City Council members. I oppose this Bill!		
Name: Elena Jones	Email: elenaj1966@outlook.com	Zip: 96782
Representing: Self	Position: I wish to comment	Submitted: Jun 6, 2023 @ 09:24 PM
Testimony: Ridiculous! You're putting the cart before the horse. The raises automatically go into effect on July 1st. Vote to reject all raises, then the discussions can start on officially making the council members full-time employees and discussing what the appropriate pay and benefits will be. Section 11-101 of the City Charter states that you " shall faithfully discharge the duties of your office regardless of personal		

considerations." That means putting resolutions 23-081 and 23-082 up for a vote.

Also, it is not a conflict of interest to vote on the rejection of your raises. In the City Charter, Section 3-122.2 states, "Said resolution shall be forwarded to the mayor and the council but shall take effect without their concurrence sixty calendar days after its adoption unless rejected by a three-quarters vote of the council's entire membership. The council may reject either the entire resolution or any portion of it."

I oppose all raises. Vote to reject the entire resolution. Show the public where you stand.

Name: Donna Ambrose	Email: venice2kailua@hawaii.rr.com	Zip: 96734
Representing: Self	Position: I wish to comment	Submitted: Jun 6, 2023 @ 09:25 PM

Testimony:
This bill is a distraction from the proposed salary increases. It doesn't matter if someone makes additional money outside his/her City Council role as long as said work doesn't present a conflict of interest.

Mahalo,
Donna Ambrose

Name: maile burke	Email: ayapap81@hotmail.com	Zip: 96826
Representing: Self	Position: Oppose	Submitted: Jun 6, 2023 @ 09:32 PM

Testimony:
What people do outside of work hours is not the business of voters/our community.

That people get paid a reasonable, living wage that fairly compensates them should be ensured for all voters/our community.

Council members should be required to vote and to explain why they deserve an increase.

Available money should be used to benefit voters/our community, not just a handful of individuals.

Thank you.

Name: ELLIE MAE C	Email: ELLIE_SIMPSON@HOTMAIL.COM	Zip: 96701
Representing: Self	Position: I wish to comment	Submitted: Jun 6, 2023 @ 09:35 PM

Testimony:
I SUPPORT OUTSIDE EMPLOYMENT 150 PERCENT!!! THEY SHOULD BE ALLOWED TO WORK OUTSIDE JOBS SO THEY CAN SUPPLEMENT THEIR INCOME!!! IT IS VERY EXPENSIVE LIVING IN HAWAII!!! EVERYTHING IS INCREASING AND ONE OF THEM IS THE PROPERTY TAX!!!

Name: Curtis Sakamoto	Email: csakamoto68@hotmail.com	Zip: 96789
Representing: Self	Position: Oppose	Submitted: Jun 6, 2023 @ 10:59 PM

Testimony:
I strongly oppose Bill 33. I feel this is something that needs to be heard and weighed on by the public. This bill seems to have been submitted prematurely and to distract from the outrageous raises that Chair Waters would like to silently pass without opening it up for discussion or voting. Please reconsider and address the real issue first which is the exorbitant Council raises and the full-time or part-time status before restricting outside employment.

Name:	Email:	Zip:
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Natalie Iwasa	iwasajunk@mail.com	96825
Representing: Self	Position: Oppose	Submitted: Jun 6, 2023 @ 11:12 PM
Name: Leslie Yanagi	Email: les007@mail.com	Zip: 96826
Representing: Self	Position: Oppose	Submitted: Jun 7, 2023 @ 12:41 AM
<p>Testimony:</p> <p>I oppose this measure. The fact of the matter is that Honolulu City Councilmembers are not the only elected officials who have outside income. The governor and state legislators do as well. I haven't heard of any efforts to ban their ability to work outside of their duties as elected officials. If elected officials are not able to fulfill their oath to serve because of their outside employment, they will be held accountable by the people at the ballot box on election day. The real issue is that city councilmembers should not be receiving such a hefty raise in pay, especially when so many people in the community are still struggling out there to make ends meet due to the high cost of living and coming out of the economic impact of the pandemic. The council should be voting on whether or not to accept the pay raise approved by the Honolulu Salary Commission not on whether or not they should have outside employment.</p>		
Name: Choon James	Email: ChoonJamesHawaii@gmail.com	Zip: 96762
Representing: CountryTalkStory.com	Position: Oppose	Submitted: Jun 7, 2023 @ 12:51 AM
Name: Marjorie Muraki	Email: marjfukuda@gmail.com	Zip: 96701
Representing: Self	Position: I wish to comment	Submitted: Jun 7, 2023 @ 06:53 AM
<p>Testimony:</p> <p>Since the City council position is part-time, I don't think I'd be able to oppose council members having outside employment. However, I do not feel that the salary commission's recommendation for a 64 percent increase is appropriate at this time! So many people in the state of Hawaii are struggling just to make ends meet! Now is NOT the time for such a huge increase! Council members: Please have some heart, compassion for the people of Hawaii and reject this salary increase! If passed, it will add to the burden of Hawaii's people.</p>		
Name: Mialisa Otis	Email: mialisa808@gmail.com	Zip: 96795
Representing: Self	Position: Support	Submitted: Jun 7, 2023 @ 07:31 AM
<p>Testimony:</p> <p>It is a full time job to represent the communities around the island. The people deserve your full attention. Therefore, the councilmembers should devote their time as leaders, and should be prohibited from holding other employment to focus on the needs of their communities. Mahalo</p>		
Name: Chace Shigemasa	Email: chaceshigemasa@gmail.com	Zip: 96818
Representing: Self	Position: Oppose	Submitted: Jun 7, 2023 @ 08:26 AM
<p>Testimony:</p> <p>Prohibiting outside employment goes against the precedent of allowing all types of backgrounds and minds that represent different expertise provide valuable input at the Council. This will inhibit future generations of leaders become active in the political process. Please consider the adverse affects this will have on the Council going forward. This practice is used at the State Legislature and allows many different backgrounds to be elected and provide great expertise in the creation of laws. Passing a measure such as this to justify pay increases is reprehensible. I urge the Council to reject this measure during first reading.</p>		

Name: Jasmine Jenkins	Email: jasmineutu1@gmail.com	Zip: 96813
Representing: Self	Position: Oppose	Submitted: Jun 7, 2023 @ 11:02 AM
Testimony: I oppose this bill. The charter has been signed by the council members upon taking their positions that their position and duties are part-time. A part-time position that deems them the responsibility, if necessary, to find other work. This bill should not be created just to supplement the raised pay of council members. They are supposed to be the voice of the people. They don't have the authority to make decisions like legislature or judicial branches. They are solely in council to raise concerns of the people to push organizations and people in power to make moves according to what the people are concerned about and their best interest. Council members are sworn in and take the oath understanding this. I do not support movements of bills or amendments just to supplement the decisions of salary increases. As a resident, this is completely disrespectful of how my voice is taken into account and how my tax money is spent.		

Bill 33 - Outside Employment

Dear Chair, Vice Chair & Councilmembers,

CARES is in opposition and wishes to comment.

Introduction

There are a few legislators at the City & State that have outside work. Whether they're a councilmember, or a senator or State representative, each legislator's work in the community is different. Some work at the office everyday, others are out in the district a lot. In their personal capacity of how they get involved in the community and engage with the people, it all varies. The legislators who do have outside work practice very good work ethic. They legislate, and then they also work to contribute to the economic workforce. Various jobs do not diminish a councilmember's work at the City.

If there is a legislator who is a famous actor or a producer or a director, the publicity & the audience he has gained from his work in TV, Radio & Film, can also be the platform for which he raises up community concerns, generates attention & support for the City's efforts and collaborates the community to achieve the City's goals. This example shows us how outside work can actually create an extraordinarily positive effect for a councilmember's work, for the City and for the people of the community.

Employment

CARES wishes to comment that this bill does not necessarily apply to every situation of "outside employment" because "employment" is a very technical word. "Employment" in this bill is vague & ambiguous. It does not distinguish between those who are employed or contracted.

From [the Bureau of Labor Statistics](#)¹, a federal agency:

"The question "Is a worker an employee?" may seem like a simple one to answer on its surface. The dictionary definition of "employee" says that an employee is "a person who works for another in return for financial or other compensation." Under that definition, independent contractors would appear to be employees. However, the legal definition of "employee" is concerned with more than the pay received by a worker for services provided. Black's Law Dictionary defines "employee" as "a person in the service of another under any contract of hire, express or implied, oral or written, where the employer has the power or right to control and direct the employee in the material details of how the work is to be performed." In contrast, an "independent contractor" is one who, "in the exercise of an independent employment, contracts to do a piece of work according to his own methods and is subject to his employer's control only as to the end product or final result of his work." This legal distinction as to how a worker must be classified has broad implications—and potentially negative consequences for mischaracterization—for both employers and workers alike.

This article examines how the legal determination is made that a worker is either an employee or an independent contractor, beginning with a discussion of why the determination is important and then discussing the tests used by courts to 4 Monthly Labor Review January 2002 What Is an Employee? make the determination and the laws pursuant to which each test applies.

U.S. law imposes other obligations on employers with respect to employees that are not imposed on independent contractors. The Fair Labor Standards Act (FLSA) requires employers to meet minimum-wage and overtime obligations toward their employees. Title VII of the Civil Rights Act of 1964 prohibits employers from discriminating against their employees on the basis of race, color, religion, sex, or national origin, while the Age Discrimination in Employment Act (ADEA) prohibits employers from discriminating against employees on the basis of their age. The Employment Retirement Security Act (ERISA) sets the parameters of qualified employee benefit plans, including the level of benefits and amount of service required for vesting of those benefits, typically in the context of retirement. The Americans with Disabilities Act (ADA) prohibits employers from discriminating against qualified individuals who have disabilities. The Family and Medical Leave Act (FMLA) requires employers to provide eligible employees with up to 12 weeks of unpaid leave per year when those employees are faced with certain critical life situations. The National Labor Relations Act (NLRA) grants employees the right to organize and governs labor-management relations. Clearly, then, some incentive exists for employers to classify their workers as independent contractors rather than employees, in order to reduce costs and various legal obligations. However, the failure of an employer to make the proper determination as to whether workers are employees or independent contractors can have dire consequences. Employers who are careless in their labeling of workers as independent contractors risk exposure to substantial liability in the future under Federal law if the workers are mischaracterized. The U.S. Government—in particular, the Internal Revenue Service (IRS)—can seek to recover back taxes and other contributions that should have been paid by the employer on the employee's behalf, and the workers themselves can seek compensation for job benefits that the employer denied them on the basis of their supposed status as independent contractors. One of the most striking examples of the danger of mischaracterizing workers as independent contractors rather than employees occurred in *Vizcaino v. Microsoft*, a case in which the U.S. Court of Appeals for the Ninth Circuit held that a class of workers for the leading U.S. computer software company were employees who were entitled to participate in Microsoft's various pension and welfare plans, despite the fact that the workers had signed an agreement that labeled them as independent contractors.

The proper classification of a worker as an employee or independent contractor at the beginning of an employment relationship is important to both employers and workers with respect to their obligations and protections under Federal law. Although the classification does depend on the Federal law being applied, the overriding factor is who

has the “right to control” the work process, and the relationship is based upon all of its characteristics, regardless of what label the employer applies to the worker.”

What Is an Employee?

Exhibit 1. Tests for determining whether a worker is an employee		
Test	Description	Laws under which test has been applied by courts
Common-law test (used by Internal Revenue Service (IRS))	Employment relationship exists if employer has right to control work process, as determined by evaluating totality of the circumstances and specific factors	Federal Insurance Contributions Act Federal Unemployment Tax Act Income tax withholding Employment Retirement and Income Security Act National Labor Relations Act Immigration Reform and Control Act (IRS test)
Economic realities test	Employment relationship exists if individual is economically dependent on a business for continued employment	Fair Labor Standards Act Title VII Age Discrimination in Employment Act Americans with Disabilities Act Family and Medical Leave Act (likely to apply)
Hybrid test	Employment relationship is evaluated under both common-law and economic reality test factors, with a focus on who has the right to control the means and manner of a worker’s performance	Title VII Age Discrimination in Employment Act Americans with Disabilities Act

Exhibit 2. Factors used to determine a worker's status under the common-law test

Factor	Worker is an employee if—	Worker is an independent contractor if—
Right to control	Employer controls details of the work	Worker controls details of the work
Type of business	Worker is not engaged in business or occupation distinct from employer's	Worker operates in business that is distinct from employer's business
Supervision	Employer supervises worker	Work is done without supervision
Skill level	Skill level need not be high or unique	Skill level is specialized, is unique, or requires substantial training
Tools and materials	Employer provides instrumentalities, tools, and location of workplace	Worker provides instrumentalities and tools of workplace and works at a site other than the employer's
Continuing relationship	Worker is employed for extended, continuous period	Worker is employed for specific project or for limited time
Method of payment	Worker is paid by the hour, or other computation based on time worked is used to determine pay	Worker is paid by the project
Integration	Work is part of employer's regular business	Work is not part of employer's regular business
Intent	Employer and worker intend to create an employer-employee relationship	Employer and worker do not intend to create an employer-employee relationship
Employment by more than one firm	Worker provides services only to one employer	Worker provides services to more than one business

What Is an Employee?

Exhibit 3. Factors used to determine a worker's status under the economic realities test

Factor	Worker is an employee if—	Worker is an independent contractor if—
Integration	Worker provides services that are a part of the employer's regular business	Worker provides services outside the regular business of the employer
Investment in facilities	Worker has no investment in the work facilities and equipment	Worker has a substantial investment in the work facilities and equipment
Right to control	Management retains a certain type and degree of control over the work	Management has no right to control the work process of the worker
Risk	Worker does not have the opportunity to make a profit or incur a loss	Worker has the opportunity to make a profit or incur a loss from the job
Skill	Work does not require any special or unique skills or judgment	Work requires a special skill, judgment, or initiative
Continuing relationship	Worker has a permanent or extended relationship with the business	Work relationship is for one project or a limited duration

Wealth Disparity

There are unintentional ways where policies create a bigger gap between the rich & the poor, and the privileged & the elite versus the disadvantaged & the marginalized. By limiting employment and raising the salaries, this may contribute to the wealth disparity. This contributes to the inequality where the distribution of wealth becomes a disparity, or, unfair. Although it seems advantageous for future councilmembers who will only have 1 job with good pay, this does in essence create “career politicians” who are no longer just an average community member who have to struggle and juggle careers. By creating this classification of “career politicians”, the 2 policies have unintentionally created a bigger gap between the elite and the average working class.

Because it is unprecedented that these 2 subject matters are being brought up at the same time, the salary raise & outside work, it is critically important to deliberate both to find an equitable & fair solution.

Conclusion

In closing, CARES will conclude that councilmembers should not be limited to their work at the City. Individuality in their work style will help each councilmember work a little differently to get to know the needs in the community and to set their community’s goals.

Blessings,

Angela Melody Young
CARES

Works Cited

1. “What Is an Employee? The Answer Depends on the Federal Law.” Bureau of Labor Statistics, www.bls.gov/opub/mlr/2002/01/art1full.pdf. Accessed 5 June 2023.

TO: Members of the Honolulu City Council

FROM: Natalie Iwasa

DATE: Wednesday, June 7, 2023

SUBJECT: Bill 33, Ban Outside Employment for Councilmembers – **OPPOSED**

Aloha Chair Waters and Councilmembers,

Thank you for this opportunity to provide testimony on Bill 33, which would ban outside employment for councilmembers. I absolutely oppose this bill for several reasons.

Each person handles work differently, and banning outside work doesn't mean that all councilmembers (CM) will devote their "full attention, time and energy" to working on council matters. Various factors that impact how well a person does a job include:

- How well the person manages time;
- How well the person manages staff;
- How well the CM knows the issues and is able to comprehend what comes before the Council as well as how those issues impact residents and taxpayers;
- How good staff are at their jobs;
- How many constituent/donor meetings a CM takes;
- Which committees the CM is assigned to chair;
- The number of neighborhood boards the CM reports to;
- Types and amount of outside pressures, etc.

Councilmembers knew (or should have known) the parameters of being a councilmember, and some are not career politicians, nor do they want to be. Instead, they plan on maintaining outside employment so they have something to go back to when their terms are up.

Please vote "no" on Bill 33.

Out of curiosity, I tabulated councilmember attendance at neighborhood board meetings for January – March 2023. ("Rep." means a representative reported for the councilmember.)

	Present	Absent	Rep.
A. Tupola	45%	27%	27%
M. Weyer	30%	0%	70%
E. Kia'aina	45%	0%	55%
T. Waters	15%	15%	70%
C. Say	58%	5%	37%
T. Dos-Santos Tam	45%	0%	55%
R. Cordero	50%	0%	50%
V. Okimoto	75%	0%	25%
A. Tulba	83%	17%	0%



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ORDER OF BUSINESS

REGULAR MEETING
CITY COUNCIL CHAMBER
9TH SESSION
WEDNESDAY, JUNE 7, 2023
10 A.M.

STRONGLY OPPOSE
Bill 33 (2023) & Resolution 23-109

Relating to outside employment. (Prohibiting Councilmembers from holding other employment while holding office.)

Aloha Chair Tommy Waters, Esther Kia'aina, and City Council members:

This quick introduction of Bill 33 comes across as an intentional obfuscation to the 64% salary increase controversy. Chair Waters' adamant rationale that the council position is "**full-time**" and thus deserving of the 64% salary increase needs to be discussed first.

Bill 33 also comes across as retaliatory against the two "dissidents" who Independently introduced Resolution 23-081 and Resolution 23-082 to directly address the 64% pay increase and to allow public participation.

Chair Waters has refused to allow these two Resolutions to be heard or be placed at this Meeting's Agenda. Instead, the Chair introduced Bill 33 and Resolution 23-109. These two new actions do not directly address the 64% salary increase issue. If nothing is addressed, the 64% salary increase becomes in effect on July 1, 2023. Cherry-picking which bill to be heard and which not to does not promote an open and transparent government.

The idea that a council member should devote "**full-time**" to its duties and responsibilities is laudable. But there are other substantial negative multiplier impacts that must be considered.

- 1. There is No specific language** in this Bill 33 stating that it is "full-time" position. Bill 33 states a projected hope to prevent conflicts of interests or appearances of potential of conflicts of interest, and supposedly "*maintains fiscal integrity, and promotes public trust in government officials.*" (How does paying 64% pay raises or more and other related costs support fiscal integrity?)

***EXCERPTED from Bill 33.** "Due to these responsibilities and obligations to O'ahu residents, it is essential that these officers devote their full attention, time, and energy to serving our community to the best of their abilities and avoid even the appearance of potential conflicts of interest. Prohibiting Councilmembers from holding other employment while in office prevents any semblance of impropriety or*

a conflict of interest, maintains fiscal integrity, and promotes public trust in government officials. Accordingly, the purpose of this ordinance is to prohibit Councilmembers from holding other employment while holding office.”

- 1. STANDARDS:** How to set a full-time Job Description for a council member to be consistent with these hopes? Aren't current council members living up to these ideals now?

What activity is considered to be in compliance and what is not to *“devote their full attention, time, and energy to serving our community to the best of their abilities and avoid even the appearance of potential conflicts of interest.”*

Should a city council member immediately resign if they wish to run for other political offices?

It's a known fact that many city council members have vigorously campaigned for other political offices while still a council member. There was a recent case of a city council member also hired a paid city staff member to concurrently be her personal social media campaign manager. In another office, insiders reported a full-time paid staff member as a stealth worker. (Each city council member has 5 full-time staff.)

Should there be two regular monthly council Hearings instead of one?

Should there be required town hall meetings to introduce and explain all the significant bills and resolutions that significantly affect residents?

- 2. ENFORCEMENT:** How is this full-time expectation going to be enforced? Does a city council member clock in and out or be required from the Ethics Commission to provide a “6-minute” time sheet to report work hours imposed on the former Ethics Director Chuck Totto and staff during the 2016 controversy at City Hall?

What public engagements can be treated as “essential” to a council member's duties and what could be deemed as self-promotion and

self-interest and so on?

- 3. Will Bill 33 attract the best and brightest candidates?** The city council temporary tenure is at best a 8-year position. The tradition of “public service” and “giving back to society” should be encouraged. This is a public office for the public good. If a candidate will only run because of the money, that candidate may not be the ideal candidate for this public office.

To completely mandate a council member to divest of outside professional involved can actually prevent concerned citizens from running. Some may be willing to serve in a public office and reduce their professional obligations but need to return to their original profession after the tenure is over. Eight years is a big long break.

“ARTICLE _ : OUTSIDE EMPLOYMENT OF COUNCILMEMBERS

§ 5-_.1 Definitions. For the purposes of this article, the following definitions apply unless the context clearly indicates or requires a different meaning.

Blind Trust. A trust agreement where neither the trustor nor the beneficiaries have any control or influence over, or knowledge of, the assets in the trust, and which complies with the definition of “qualified blind trust,” as defined in the Ethics in Government Act of 1978, 5 U.S.C. § 13101—13146 or their successor provisions.

Emolument. Any salary, fee, payment, wage, earning, allowance, stipend, honorarium, or reward; provided that “emolument” does not include the salary or benefits for service as a councilmember; any pension income; retirement income; social security payment received; non-controlling ownership of stocks, mutual funds, or real estate; rental income; or dividend, interest, or other form of passive income.

§ 5-_.2 Prohibition. (a) As of the sixty-first calendar day after election or appointment to office, a councilmember may not, while holding that office, maintain any other employment, maintain a controlling interest in a business, or receive any emolument.

(b) Where a councilmember has a controlling interest in a business

and does not wish to divest himself or herself of that interest, in order to comply with this section the councilmember may transfer the interest to a blind trust within sixty one days of election or appointment.

This is a good discussion to be had amongst many. But let's address the 64% pay increase first and allow public participation on that. The public understands the need for pay raises but insisting on a 64% pay raise is too bitter a pill for citizens to swallow.

Mahalo,

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