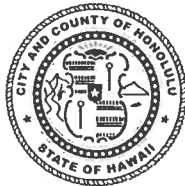


ETHICS COMMISSION
KOMIKINA LAWENA HANA KŪPONO
CITY AND COUNTY OF HONOLULU

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KŌKUA PO'O HO'OKŌ A ME KE A'OA'O LOIO

March 21, 2024

The Honorable Tommy Waters
Chair and Presiding Officer
and Members
Honolulu City Council
530 South King Street, Room 202
Honolulu, Hawaii 96813

Dear Chair Waters and Councilmembers:

SUBJECT: Bill 26 (2022), CD2, Proposed FD1 – Comments

Thank you for the opportunity to comment on Bill 26 (2022), CD2, proposed FD1.

The Ethics Commission supports the intent of this measure, which is to update the city's gift laws. However, the Commission requests that subsection (c) be deleted. Our reasons follow.

Subsection (c) contradicts the spirit of the Revised Charter of Honolulu and city ethics laws. It allows certain officers or employees to accept gifts, disclose acceptance of such gifts as having created a conflict of interest, then avoid carrying out their official city duties. Rather than discouraging gifts to all officers and employees, this provision encourages gifts to a discreet class of employees.

Contrary to what this bill provides, a conflict of interest occurs when your public duties or responsibilities conflict with a pre-existing business, financial, or personal interest, not one created by accepting a gift. Disclosure is required when a conflict becomes apparent.

Subsection (c) may negatively impact employee morale by creating a separate class of employees who are allowed to accept gifts. This provision would enable employees with the authority to "grant or approve any application for a city permit, license, registration, lease, contract, variance, or similar approval" to accept gifts and disclose; employees who lack this authority could not.

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The Honorable Tommy Waters
Chair and Presiding Officer
and Members
March 21, 2024
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At present, some of the very departments with such authority over applications, contracts, and the like, have established zero-tolerance gift policies to address these issues and requested specialized ethics training on gifts in response to criminal convictions and a culture of corruption.

Further, subsection (c) encourages a culture of "pay to play." Applicants, contractors, and other with the means to gift city employees would have an advantage over those who could not. Over the course of many years and transactions and across potentially many employees, members of the public who "pay to play" by giving gifts to city employees with decision-making authority can gain influence and access, receive preferential treatment, curry favor, open doors, and build rapport and relationships. Those who "pay to play" would have a clear advantage over those who do not. The city should strive for a level playing field, not one that favors gift-givers over others.

We remain committed to passing this measure and request that subsection (c) be deleted. Thank you for the opportunity to offer comments on this measure. We are available for questions should you have any.

Sincerely,



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Jan K. Yamane
Executive Director and Legal Counsel