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Ian Lind • Online daily from Kaaawa, Hawaii

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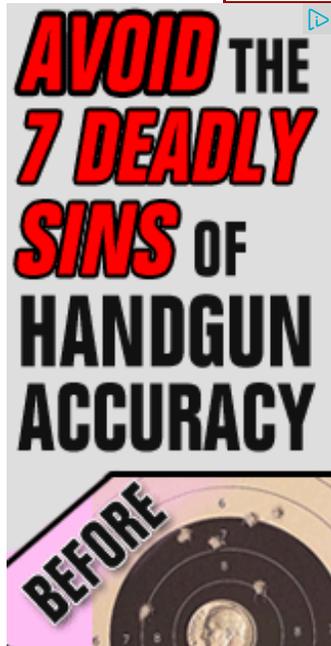
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Ethics Commission to oppose bill allowing gifts from charities

March 17th, 2011 · 16 Comments · Ethics, Politics

The Senate bill that would allow unlimited gifts to legislators and other public officials from charitable organizations (SB671 HD2) passed the Senate without any votes against it and is now pending in the House.

Nikki Love of [Common Cause Hawaii](#) reports that the State Ethics Commission discussed the bill at its meeting yesterday morning and decided to oppose the



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Nohea



bill.

SB671 HD2 has a double referral to the House Judiciary Committee and Committee on Legislative Management. It has not yet been scheduled for a hearing before the Judiciary Committee.

SB671 was the subject of [my commentary this week on Hawaii Public Radio](#).

At first, that doesn't seem unreasonable. They're charities and, after all, it's for a good cause, right?

But accepting gifts can also mean accepting an obligation to reciprocate in some way to the gift giver.

That spells trouble, because charities are now big business. Some of our most powerful and politically connected institutions are charitable organizations, complete with significant for-profit subsidiaries and affiliates, and all seeking public policies favorable to their interests.

Keeping in mind that some major political players fall into the category of charitable organizations, including Bishop Estate and the Queen Emma Land Company (formerly the Queen Emma Foundation), my conclusion:

When any special interests, whether charitable or not, come bearing gifts and seeking favors, legislators and public employees should not be free to accept their largess.

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SaltLakeSuz // [Mar 17, 2011 at 8:57 am](#)



I'm with you and the Ethics Commission. NO GIFTS is the best policy, in the long run.

The appearance of, or simply questions about, a conflict of interest is as abhorrent as an actual conflict of interest.

[Reply](#)

Kolea // [Mar 17, 2011 at 9:35 am](#)



Setting aside the specific bill, I gotta take exception to your last point, one that I often hear.

“The appearance of, or simply questions about, a conflict of interest is as abhorrent as an actual conflict of interest.”

I strongly disagree. I agree that APPEARANCES can lead to a corrosion of public confidence in the integrity of an official or of the system more generally. So appearances should be avoided.

By that standard, all an opponent of a government official has to do is cast aspersions, raise suspicions against them and they stand guilty of “appearing” to be engaged in improper behavior. If we adopt as a standard, “where there is smoke, there is fire,” it just encourages other people to “blow smoke.”

Here’s an alternative suggestion. We push for optimal transparency, so when appearances of improper behavior arise, they do not occur

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behind closed doors. When a credible complaint of improper behavior is filed, it is investigated and the accused be given at least SOME LEVEL of “due process” before being convicted?

Or we can all read the Star-Advertiser story casting aspersions on Abercrombie and Marvin Wong and conclude they are both guilty of some, vaguely defined “conflict of interest.”

[Reply](#)

MakikiBarb // [Mar 17, 2011 at 3:44 pm](#)



Kolea–

Please think again! By your reasoning, we should not have any ethics laws at all, or an Ethics Commission. Just let anyone do anything they want, but make everything transparent.

But, oops! You wouldn't want anyone to call anyone on a possible ethics violation without an investigation first (by whom?). In effect you are throwing ethics out the door!



[Reply](#)

Kolea // [Mar 17, 2011 at 7:23 pm](#)



I don't think so. The Ethics Commission can advise against, even investigate, actual ethical violations, when there is an appearance.

Maybe we should just abandon determining actual guilt in criminal cases as well? Once there is an “appearance” that a crime has been committed, there is no need for a trial?

Or should politicians and government officials be judged according to the “appearance” standard, while only regular

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folks deserve due process?

[Reply](#)

Kolea // [Mar 18, 2011 at 9:29 am](#)



MakikiBarb,

I think you misunderstood my point. Perhaps because, as is often the case, I was unclear. I do not believe it is proper for legislators to accept “gifts,” beyond the box of manapua for staff level mentioned by Les Kondo. There can be a clear law against that. A law against which an official’s actual behavior can be measured and judged.

What I was objecting to is the notion that the “appearance of a conflict of interest” is a useful or fair standard. The APPEARANCE of improper conduct should trigger an investigation to establish if an actual violation exists.

The Sunday Star-Advertiser article about Marvin Wong created the “appearance” of a conflict in the hiring of Marvin Wong, more through the placement of the story on the front page and the choice of headline than because any convincing evidence was presented.

In the case of Ted Liu’s reward of a contract to Lingle cronies, Senator Kim managed to produce a fairly strong case actual misconduct occurred. But news accounts created the APPEARANCE that Senator Kim was being a “shrew,” and the evidence was largely ignored. By accepting the “appearance” standard and not demanding a higher standard of evidence, readers/citizens are unable to distinguish between the two types of cases. The commonplace assumption that “all

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politicians are corrupt” is reinforced and we lose a weapon in combatting real corruption.

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You are Correct Sir // [Mar 17, 2011 at 9:20 am](#)



Charity events don't count?? Tables at the exclusive Heart Ball go for \$10,000.....so a seat or an invite is \$1000. Many many other high brow “charity events” are very similar. These are usually attended by the who's who of Honolulu so an invite is pretty valuable. Now, I'm sure there are those that are brown bag lunches too but I'm just sayin you can't lump them all together as the same value.

[Reply](#)

Pat // [Mar 17, 2011 at 10:42 am](#)



Are these “tax exempt charities” that rely on charitable givers or trust funds? It is absurd that the Hawai'i Senate would approve the acceptance of gifts from anyone.

[Reply](#)

Nancy // [Mar 17, 2011 at 11:23 am](#)



So my donation to a charitable organization could go toward unlimited gifts to lawmakers? Fine, I'll stop donating.

[Reply](#)

Larry // [Mar 17, 2011 at 1:22 pm](#)



Should this come up for a hearing, I hope that commenters will submit testimony. The non-profits for whose benefit this conspiracy was crafted have, and will again.

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Jeannine // [Mar 18, 2011 at 7:28 am](#)



I agree that the appearance of a conflict of interest can be as bad as an actual conflict of interest. People are quick to judge without hearing all the facts, so it's better not to go there at all.

[Reply](#)

Andy Parx // [Mar 18, 2011 at 11:51 am](#)



I think there's a bit of equivocation going on here Kolea. The term "appearance of a conflict" (of interest) is not appearance of misconduct. It simply mean that the relationship is close enough to cause a "potential" conflict. In this case the terms "potential" and "appearance of" can be used interchangeably. It's actually the appearance of the potential for a conflict- that is what needs to be avoided.

It's just like, even though nepotism doesn't mean there is necessarily misconduct we avoid it because it creates a situation for a potentially corrupt situation. The "just as bad" part means it's just as bad in the eyes of the public because there is often no way to ascertain if there is actual misconduct. And so it is "just as bad" in appearance.

[Reply](#)

Ian Lind // [Mar 18, 2011 at 12:34 pm](#)



Thanks, Andy. Excellent clarification.

[Reply](#)

Kolea // [Mar 18, 2011 at 4:09 pm](#)



I hate to persist when people I respect as much as I do Barb, Ian and Andy tell me I am being boneheaded. But here I go.

If by “appearance,” you mean a relationship which means almost inevitable it will result in an actual conflict, as for example a case of nepotism, where a person is in charge of supervising or evaluating the performance of a close relative, and that such a relationship is improper even without any actual proof of improper behavior, I can accept THAT concept.

But I am hearing another meaning as well. Which is why I am persisting with my objection. For some people, Abercrombie’s hiring of Marvin Wong “appears” to be a conflict of interest.” And, as I said, that appearance was strengthened, even broadcast, by the framing of the story in the Sunday paper as if it were a major scandal.

So does the public perception that something is wrong rise to the level of “an appearance of a conflict of interest” under the definition Andy is offering and which Ian appears to be accepting?

Or am I still missing something?

Thank you. I’ll take my answer off the air.

[Reply](#)

MakikiBarb // [Mar 18, 2011 at 6:55 pm](#)



Kolea–

I think this discussion got off track with your concern about the Abercrombie/Wong situation. That has nothing to do with the question of ethics laws and their interpretation, both of which are based on avoiding the appearance of conflict of interest. That’s what can’t be thrown out of the laws or the official process, and

why I objected to your initial statement.

With respect to the Wong/Abercrombie situation—whether we like it or not, there is nothing to stop anyone from saying that something looks fishy to them, and nothing to stop a newspaper from publishing it. Politicians are public figures and are inevitably going to be evaluated by the public—and the media—on an on-going basis. They would be wise to avoid causing that type of concern, though, obviously, it’s not always possible to know how an action will be perceived. In this case, it would help encourage public confidence if the Governor would clarify how he is avoiding the potential conflict in this case, rather than relying on statements from Wong and associates that they have always been friends and supporters, especially since lavish supporters often do expect something in return.

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charles // [Mar 19, 2011 at 10:40 am](#)



If one were to take the “appearance” standard as a minimum, then any public official ought to refrain from doing much of anything that anyone might think is inappropriate.

That, indeed, is a tricky course to maneuver.

As far as the bright line standard that absolutely no gifts should ever be given, it would mean that even giving lei would be forbidden.

I’m not sure that lei are given in states like Wisconsin and Minnesota where legislators cannot accept any gifts but my hunch is that it is not a cultural tradition there.

I suppose that if any politician felt that any event was worthwhile to attend, then it ought to come out of personal funds rather than depending

on the largesse of the inviting entity.

But it does get challenging, in my opinion, to have an absolute rule. For example, Waianae High School has a school play and tickets are \$10. Should district legislators pay for this out of their own pocket? Or is it acceptable that they be given complimentary tickets?

Then multiply that many times over and it starts adding up.

I do agree with Kolea that transparency is at least part of the answer. If we find out that a legislator got invited to an event for, say, the Heart Association, and then introduced a bill for a grant-in-aid to the Heart Association, conclusions (or the appearance of one, I suppose) can be drawn.

But, say, that legislator paid the \$50 ticket using personal funds and still introduced a GIA bill. Then what?

[Reply](#)

[Andy Parx](#) // [Mar 19, 2011 at 11:42 am](#)



It has nothing to do with any inevitability Kolea- sometimes the best person for the job has connections to the one doing the appointing. And most of the time, even with the appearance, there is no corruption. It's more that the fact that there could be shenanigans due to a connection makes it an undesirable hire for all involved.

Perez's piece shows exactly why. My impression was like your- it seemed there was no "there there." But the fact that he could create that kind of piece that would make people think there is something shady going on comes from the mere connection- that "appearance." The mere appearance or potential feeds that "oh they're all corrupt" attitude among the electorate that helps to poison the system.

It's the Caesar's wife thing. The pol in a position to appoint should stay away from appointing those who have done favors or are close friends or relatives or business associates simply because their activities should appear to be "beyond reproach."

People will assume the worst so why give them the chance?... unless of course there is some kind of funny stuff in appointing your former campaign manager to head up a department in which they have absolutely no experience or expertise.

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