



March 12, 2008

**TO:** CONSUMER PROTECTION & COMMERCE  
and JUDICIARY COMMITTEES

Representatives Robert Herkes and Tommy Waters, Chairs  
Representatives Angus McKelvey and Blake Oshiro, Vice Chairs

**FROM:** John Flanagan, Hawai'i Alliance of Nonprofit Organizations

**RE:** Testimony on **SB3171 SD2**, relating to charitable trusts and nonprofit organizations

**HEARING:** 2 p.m., Thursday, March 13, Conference Room 325

The Hawai'i Alliance of Nonprofit Organizations is a statewide and sector-wide membership organization that unites and strengthens the nonprofit sector as a collective force to improve the quality of life in Hawai'i. HANO members include more than 280 charitable organizations of all kinds that are tax-exempt under Section 501(c)(3) of the Internal Revenue Service Code. HANO members provide valuable services to communities on every island.

HANO supports the intent of **SB3171 SD2**, which is to protect charitable giving:

- We support the Attorney General's Office in its efforts to **insure donor confidence**. HANO is working toward the same goal, providing training and technical assistance to assist nonprofit organizations in Hawai'i in fulfilling their missions through proper financial management, informed leadership, regulatory compliance and best practices in board governance.
- HANO recognizes that the AG needs the **added enforcement powers** included in this bill to do its job, such as injunctions, subpoenas and a compulsory hearing process. We applaud the AG's efforts to provide information to donors about professional fundraising campaigns and the net proceeds that charities receive. We also understand that adequate oversight requires staff and equipment.

- We appreciate the changes in the bill since its introduction in the Senate that the AG has agreed to, such as **extended filing deadlines** that allow nonprofits to have their books audited in summer months rather than before the IRS' April tax deadlines when the work is more expensive.
- We applaud the AG also for agreeing to a **deadline to register** of Dec. 31, 2008, for nonprofits already doing business in Hawai'i.
- We support the amendment that makes **sensitive registration information confidential**, such as home addresses of board members and bank account information.
- Nonprofits also appreciate the Senate's raising to \$1 million the annual revenue threshold for organizations that must submit **annual audits**. While HANO recommends that all nonprofits have annual audits or CPA reviews, as appropriate, the tightening of audit standards, recent changes in the IRS Form 990 information return and the escalating cost of audits have increased the burden and administrative overhead of small nonprofits. We feel this threshold is appropriate.

Our members have expressed reservations, however:

- Recent awards of state contracts to for-profit out-of-state companies that had formerly been awarded to Hawai'i nonprofit organizations have raised concerns about **fair and equal treatment**. Requiring Hawai'i nonprofits to file detailed financial information that is public record gives for-profit competitors an unfair advantage. If nonprofit organizations are required to register and file annual financial reports, shouldn't for-profit companies that compete for state contracts also meet these requirements?
- The bill includes annual fees ranging from \$10 to \$750 per year for organizations that receive contributions. Some HANO members say the proposed registration fees amount to an **inappropriate tax on donors**. Charities agree law enforcement agencies should have the personnel and tools needed to find and deal with abuses, but disagree that the burden should be borne by the donors who support charitable organizations and who want their contributions to go to charitable programs and services. HANO supports funding nonprofit oversight through an appropriation from the general fund rather than through the proposed registration fees.
- Many HANO member nonprofits see state registration and annual financial reports as **duplicative and unnecessary**. Nonprofits already provide annual reports to donors, supporters and volunteers and file financial reports to the IRS, to state and county agencies, to accrediting agencies, to private foundations and to other funders, such as United Ways and the Combined Federal Campaign. Annual financial reports by nonprofits to the IRS are public records that can already be viewed by anyone on Guidestar.org. If additional records are needed in a case under investigation involving misuse of donor funds or criminal wrongdoing, we

agree the AG's office should have subpoena powers to acquire them.

- We encourage the Legislature to **minimize the administrative burden** on charitable organizations and to recognize that adding duplicative administrative burdens reduces resources available for the programs and services nonprofits provide the community while increasing the pressure on fundraising. Nonprofits recognize that administrative overhead is a major concern of donors and taxpayers who strongly prefer to see their money go to direct services. This bill would increase administrative overhead, requiring more paperwork and payment of auditing and registration fees.

Thank your for the opportunity to express the views of HANO members concerning **SB3171 SD2**.

Sincerely,

A handwritten signature in black ink, appearing to read "John Flanagan", with a long horizontal line extending to the right.

John Flanagan  
President & CEO