

PUBLIC HEARING

FEBRUARY 10, 2016

A public hearing of the Council of the County of Kaua'i was called to order by Mel Rapozo, Chair, Committee of the Whole, on Wednesday, February 10, 2016, at 1:42 p.m., at the Council Chambers, 4396 Rice Street, Suite 201, Historic County Building, Līhu'e, and the presence of the following was noted:

Honorable Mason K. Chock
Honorable Gary L. Hooser
Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable KipuKai Kualii
Honorable Mel Rapozo

Excused: Honorable JoAnn A. Yukimura

The Clerk read the notice of the public hearing on the following:

“Bill No. 2614 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 3, KAUA'I COUNTY CODE 1987, AS AMENDED, BY ADDING A NEW ARTICLE 6, RELATING TO THE REGISTRATION OF LOBBYISTS,”

which was passed on first reading and ordered to print by the Council of the County of Kaua'i on January 13, 2016, and published in The Garden Island newspaper on January 22, 2016.

The following communications were received for the record:

1. Alapa, Kanani, February 10, 2016
2. Berrett, Marti, February 10, 2016
3. Brenner, Faye Reese, February 10, 2016
4. Dana, Edmund Trowbridge, February 10, 2016
5. de Buhr, Evelyn, February 10, 2016
6. Deets, Megan, February 10, 2016
7. Dinner, David, February 10, 2016
8. Earhart, Anne, February 10, 2016
9. Emura, Adelaide, February 10, 2016
10. Fallbeck, Patricia, February 10, 2016
11. Feinberg, Aaron, February 10, 2016
12. Gaines, Christina, February 10, 2016
13. Greenberg, Miles, February 10, 2016
14. Herring, Liz, February 10, 2016
15. Hillstrom, Jeremy, February 10, 2016
16. Hoeme, Debbie, February 10, 2016
17. Holloway, Victoria “Tewa”, February 10, 2016
18. Holman, Devaki, February 10, 2016
19. Hoover, Desiree, February 10, 2016
20. Hurst, Howard, February 10, 2016
21. Kanna, Nancy, February 10, 2016

22. Kaufmann, Denise, February 10, 2016
23. Koss, Larry, February 10, 2016
24. LaBedz, Diana, February 10, 2016
25. Langan, Joan, February 10, 2016
26. Leibow, Rick, February 10, 2016
27. Lesser-Benton, Joni, February 10, 2016
28. Levy, Joan, February 10, 2016
29. Lewis, Marjorie, February 10, 2016
30. Maas, Joan, February 10, 2016
31. Marshall, Paul, February 10, 2016
32. McGowan, Iris, February 10, 2016
33. Owens, Patrick, February 10, 2016
34. Peterson, Bill and Sea, February 10, 2016
35. Pizzitola, Linda, February 10, 2016
36. Quarton, Laurel, February 10, 2016
37. Rachap, Allan, February 10, 2016
38. Ranke, Kelika, February 10, 2016
39. Rawal, Shree, February 10, 2016
40. Roversi-Deal, Sky, February 10, 2016
41. Starbright, Timothy, February 10, 2016
42. Strom, Susie, February 10, 2016
43. Sutton, David H., February 10, 2016
44. Tenenbaum, Debbie, February 10, 2016
45. Threshie, Craig F., February 10, 2016
46. Trenton, Debra, February 10, 2016
47. Tyler, Jenn, February 10, 2016
48. Ucko, Kurt, February 10, 2016
49. Vernon Family, February 10, 2016
50. Walker, Maria, February 10, 2016
51. Watkins III, Samuel A., February 10, 2016
52. Weiss, Valerie, February 10, 2016
53. Wheeler, Joanna, February 10, 2016
54. Yadao, Elaine, February 10, 2016
55. Yadao, Lee, February 10, 2016

The hearing proceeded as follows:

SCOTT K. SATO, Deputy County Clerk: We received fifty-five (55) written testimony and we have two (2) registered speakers. The first speaker is Jan TenBruggencate, followed by Nancy Kanna.

JAN TENBRUGGENCATE: Thank you members of the Council. I am Jan TenBruggencate. I am speaking as an individual. I support lobbyist registration that identifies people paid to influence public opinion. In order to be effective, registration needs to be transparent, fair, and simple. A signup sheet for lobbyists kept in the meeting room available for everyone to view, that is what you need. Clear, simple, transparent, and fair is what was here at the County Council twenty (20) years ago, and you do not need any more than that to meet the requirements of the State Constitution. This Bill fails on all counts. It is complicated. It singles out local people and lets outsiders skate. It contains loopholes that lets certain people avoid registration, including Councilmembers. I will cite a few examples. It explicitly allows after-the-fact registration, a big loophole that prevents the public from learning about lobbyists until five (5) days

after the lobbying is done. If a one thousand dollars per hour (\$1,000/hour) Los Angeles lobbyist shows up here and lobbies you, he will be gone before he even has to register. How are you going to register him after he is gone? If a local high school assistant sports coach under contract or the head of the local Heart Association or Chamber of Commerce comes to lobby, they will have to file reports or be subject to massive fines, thousand dollar fines. Right now, the Bill exempts County Councilmembers themselves from lobbyist registration and it lets County Councilmembers exempt their friends, anyone they call up. Those paid to lobby do not have to register if they are called "expert witnesses" under this Bill. The Bill requires every lobbyist file financial disclosures every year, but also bans any gifts to government officials. So what is the point of the financial disclosure forms? Campaign contributions, are those gifts? If they are, then banning them, I think, violates Federal law under Citizens United. It may be a bad law, but it is the law. This prohibits lobbyists from serving on the Charter Review Commission or Board of Ethics even though any Board or Commission member already is prohibited from lobbying government officials. So what is the point of the duplication? I could go on and on, but to go back to what I suggested earlier, this County, twenty (20) years ago, had a very simple, clear, and clean lobbyist registration procedure which meets the requirements of the State Constitution. It was a form sitting right over there in this room that you filed before you were allowed to get up and speak. It does the job. It is very transparent. Everybody can understand who is getting paid to lobby the Council or lobby some other government agency. It is simple. It is what we need.

Council Chair Rapozo: Thank you.

Mr. TenBruggencate: Thank you.

Mr. Sato: The next registered speaker is Nancy...

Councilmember Hooser: Will you be providing that in writing to us?

Mr. TenBruggencate: I can. Here. It is my only copy.

Councilmember Hooser: You can hand it to staff. We can make a copy for you.

Council Chair Rapozo: Thank you.

Mr. TenBruggencate: Thank you.

Mr. Sato: The next speaker is Nancy Kanna representing the Kaua'i Board of Realtors.

NANCY KANNA: Aloha Chair Rapozo, Vice Chair Kagawa, and esteemed members of the Council. I am Nancy Kaana, Government Affairs Advocate, here to testify on behalf of the Kaua'i Board of Realtors (KBR) and its five hundred seventy-five (575) members and affiliates. KBR opposes Bill No. 2614 in its current form and recommends that Kaua'i model the Bill after the State ethic laws under Hawai'i Revised Statutes Chapter 97. Lobbying provides decision-makers with valuable insights and data as well as granting stakeholders access to the development and implementation of public policies. A sound framework for transparency in lobbying that is reasonable and balanced can be

useful. As such, KBR supports efforts to require those individuals who meet certain criteria to register as lobbyists and to register their lobbying expenditures as well as contributions received for the purpose of lobbying by filing reports. In review of Bill No. 2614, KBR believes the current proposal is overarching and presents an unreasonable burden. I am just going to kind of go through some of the highlights of the Bill. Under definition Section 3-6.2, the Bill's definition of expenditure excludes the expenses of preparing testimony, which is inconsistent with the definitions of "lobbying" or "lobbying activities." This may be expansive and would recommend that a simple trigger is to adopt from the State's lobbyist law where a lobbyist is defined as any individual, who for pay or for other consideration, engages in lobbying in excess of five (5) hours in any month or spends more than seven hundred fifty dollars (\$750) during any reporting period. The State lobbyist law defines lobbying as communicating directly or through an agent or soliciting others to communicate with an official in the legislative or executive branch for the purpose of attempting to influence legislative or administrative action or ballot issue.

The registration Section 3-6.3. Page 2, item (b) requires the registration statement to be notarized. KBR believes this requirement is burdensome and unnecessary. KBR also questions if codifying item (d) is necessary to ensure a registered lobbyist is a lobbyist. We are a small community and believe this requirement may be unnecessary. I realize my time is coming up. May I continue? Is that okay?

Council Chair Rapozo: Is there anyone else wishing to testify on this matter? Okay, then you can continue.

Ms. Kanna: Okay. I just want to be mindful of everyone's time.

Council Chair Rapozo: Thank you so much.

Ms. Kanna: Contributions and expenditures; statement, Section 3-6.5. As proposed, item (c)(1) requires every single expenditure to be detailed. It would be more realistic to attach a minimum dollar amount. For example, if I give you folks copies of something, I would have to write down eighty cents (\$0.80) for that given day. So kind of follow my logic here. One organization could be involved with many issues. Item (c)(3) requires unreasonable detail. Items (c)(5) and (6) are duplicative of State campaign financing laws. Restricted activity, Section 3-6.7. Item (c) would exclude expertise on an island where subject matter experts are scarce. We believe excluding subject matter experts would not bring stakeholders together in a collaborative fashion. Item (d) is unrealistic and is contradictive to Section 3-6.5(c)(1). Penalties; administrative fines, Section 3-6.9. Very steep fines are levied if Section 3-6.7(c) or (d) is violated. Again, item (c) and (d) are unrealistic. KBR believes in transparency and disclosure of lobbyist activity that is fair, reasonable, and within practical means. *Mahalo* for the opportunity to testify.

Council Chair Rapozo: Thank you very much. Anyone else wishing to testify on this matter? If not, the public hearing is closed.

Councilmember Hooser: Chair.

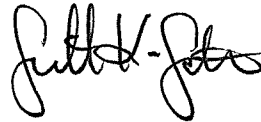
Council Chair Rapozo: I am sorry.

Councilmember Hooser: Because the public is watching this and for the record, I think it is important to state that over fifty-five (55) people testified in support of this measure, written support, and two (2) testified against it. So I think I just want to put that on record for the public watching, the millions of people who are watching at home, know that there is deep support for this issue. Thank you.

Council Chair Rapozo: Thank you. With that, the public hearing is now closed.

There being no further testimony, the public hearing adjourned at 1:51 p.m.

Respectfully submitted,



SCOTT K. SATO
Deputy County Clerk

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