



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
Senate Committee on Commerce, Consumer Protection, and Affordable Housing
March 14, 2007
by
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HB 275 Relating to the Uniform Athlete Agents Act

Chair Brian Taniguchi, Vice Chair David Y. Ige and Members of their Committee:

My name is Ryan Akamine. I am an Associate General Counsel with the University of Hawai'i Office of Vice-President of Legal Affairs and University General Counsel.

Thank you for this opportunity to testify in support of House Bill 275 on behalf of the University of Hawai'i and its respective athletic departments at Manoa and at Hilo, and respective Athletic Directors Herman Frazier and Kathleen McNally.

The University of Hawai'i strongly supports enactment of the Uniform Athlete Agents Act ("UAAA"). The University of Hawai'i has been fortunate to produce not only scholars, but scholar-athletes. Many of our student-athletes have gone on to play professional sports. But at the same time, many have not. Many professional sports, as you probably know, have become big business; with the lure of remuneration for not only the athletes, but for those that represent them. As a result, professional sports representation of athletes has become a trendy and booming business, with an inherent potential for abuse. The University of Hawai'i recognizes the potential for athlete agents to cause playing eligibility and other serious problems for student-athletes, and to also cause problems for the University of Hawai'i with its athletic conference regulators and the National Collegiate Athletic Association ("NCAA").

The NCAA organization, and its 1,000 member institutions and conferences, is strongly in favor of the current legislation passing in Hawai'i. I have personally spoken with representatives in the Office of Government Relations and the Agent Gambling and Amateurism Division to confirm the NCAA's ongoing commitment to support the enactment of the UAAA in all states.

According to the NCAA, as of January 23, 2006:

- The UAAA had been passed in 33 states, the District of Columbia and the U.S. Virgin Islands;

- Five states had existing, non-UAAA laws designed to regulate athlete agents; and
- Hawai`i was one of 12 states and one territory with no existing law to regulate athlete agents.

Clearly, Hawai`i lagged behind the majority of the United States and its territories as of that date, and we continue to fall behind. Also according to the NCAA, as of June 12, 2006:

- The UAAA had been passed in 35 states, the District of Columbia and the U.S Virgin Islands;
- Five states had existing, non-UAAA laws designed to regulate athlete agents; and
- Hawai`i was one of 10 states and one territory that had no existing law regulating athlete agents.

States, colleges and universities are concerned about athlete agents because professional sports are a lucrative business. Professional athletes are highly compensated. Most have agents that perform valuable services. Those services usually come at a high price, which makes professional sports representation a lucrative business. As a result, some agents have and will engage in immoral and illicit practices to obtain clients. The consequences of these practices pose serious problems for student-athletes and educational institutions.

Some agents are willing to use any means necessary to represent even a student-athlete who only has a remote chance of playing professional sports. Tactics by agents include unrealistic promises, arm twisting, and secret payments or gifts, including cars, to the student-athlete, and secret payments to the student-athlete's friends and relatives who may be in a position of influence over the student-athlete.

The actions of unscrupulous agents can result in significant damage and fallout to the student-athlete and the educational institution. Impermissible benefits provided by agents violate NCAA rules and may result in (1) student-athlete ineligibility for participation in NCAA competition, and (2) harsh penalties on the team and the educational institution, including the imposition of NCAA sanctions that can result in the repayment of monies received from NCAA championship competition, forfeiture of contests and other penalties. Student-athletes may also be enticed to leave school early and pursue a professional career, only to later realize that their agent gave them bad advice. At that point, the former student-athlete would probably be ineligible to participate in college sports.

The State of Hawai`i needs to enact the UAAA. As you know, the University of Hawai`i at Manoa's intercollegiate football program has been very successful over the years. In the last 8 years, 5 to as many as 10 student-athletes retain agents after their

senior year. These young men are the most visible of the student-athletes potentially at risk to unscrupulous agents, but they are not the only ones. Every year, approximately 100 student-athletes finish their college eligibility. Additionally, the most enterprising of agents are not focusing only on those that have finished or are finishing their eligibility, but on those student-athletes that haven't finished their college eligibility or are not participating in the major sports. After all, these are the student-athletes that may believe they need the services that an agent/representative may promise. We should not wait for a major NCAA infraction to occur to take affirmative action.

Currently, our State does not have any law to regulate athlete agents or to even identify who they are. In that sense, House Bill 275 has many important features:

- The UAAA will help achieve a uniform set of athlete agent regulations that will establish a clear, single set of standards for agent conduct.
- The UAAA is designed to provide protection for student-athletes by outlining improper agent conduct, and providing protection for the educational institutions, as it provides the institutions with the right to pursue a civil lawsuit against agents who cause the institution to suffer damages as a result of the agent's violation of the UAAA.
- The UAAA will provide important consumer information for student-athletes, parents and institutions, by providing access to the detailed information contained in the agent application.
- The UAAA will also provide for strong penalties. The UAAA contains criminal, civil and administrative penalties that can be imposed against those who violate provisions of the act.

In conclusion, the University of Hawai`i and Athletic Directors Herman Frazier and Kathleen McNally strongly urge the State of Hawai`i to adopt House Bill 275, and enact the UAAA. The UAAA will provide protection for the State of Hawai`i's student-athletes and educational institutions, while also providing a consistent, uniform, and cost-effective regulatory system within which agents can conduct their business.

Thank you very much for the opportunity to testify in support of House Bill 275.