

JAN 21 2011

A BILL FOR AN ACT

RELATING TO ETHICS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that a properly
2 functioning democracy is important to the health of our
3 community. Our democratic governance system depends upon
4 decision making processes free from undue influence by parties
5 favoring narrow and special interests to the detriment of the
6 general interests of the populace as a whole.

7 While all interests, public and private, may legitimately
8 participate in the making of public policy, for those interests
9 most able to wield influence, public accountability is necessary
10 to limit lobbying practices harmful to our democracy. Public
11 disclosure and transparency of lobbying activities of all types
12 are critical to provide accountability, enhance public trust,
13 and reduce the existence and perception of undue influence in
14 government policy making.

15 The legislature finds that state law currently allows
16 lobbying interests to hire, dine, and donate funds to policy
17 makers during the legislative session without, in certain
18 situations, publicly disclosing those activities. Lobbyist and



1 public official financial disclosure laws do not require
2 lobbyists or public officials to report contracts for work
3 between lobbyists and public officials if they are business
4 professionals. Legislators who are attorneys, realtors,
5 certified public accountants, insurance agents, contractors, and
6 marketing and other consultants, and who engage in private
7 business are not required to disclose their contracts with
8 parties that lobby the legislature; lobbyists are also not
9 required to disclose these contractual relationships, even if
10 the contractual relationship provides the sole source of income
11 to the legislator.

12 The lobbyist disclosure law also does not provide for the
13 disclosure of other ways of influencing policy makers.
14 Lobbyists can host lavish, reception-style dining events for
15 legislators and not report attendees or costs. During
16 legislative deliberations, lobbyists can also donate
17 significantly to the political campaigns of legislators outside
18 of reporting requirements. Moreover, the disclosure reports
19 that are filed are not due until after the legislature adjourns;
20 even if a legislator takes initiative to disclose financial
21 relationships with lobbyists, the information is not available
22 to the public when it is most relevant.



1 The purpose of this Act is to strengthen the democracy of
2 our State by providing for transparency and fairness in the
3 following ways:

4 (1) Requiring lobbyists and public officials to report
5 their financial and contractual relationships and
6 transaction amounts;

7 (2) Requiring lobbyists to disclose certain events
8 attended by legislators;

9 (3) Requiring lobbyists and their clients to disclose all
10 campaign donations made during the legislative
11 session;

12 (4) Requiring lobbyists to file disclosure reports at the
13 end of each of the months that the legislature is in
14 session; and

15 (5) Requiring legislators to file financial disclosure
16 reports by January 31 after the beginning of each
17 regular legislative session.

18 SECTION 2. Section 84-3, Hawaii Revised Statutes, is
19 amended by adding five new definitions to be appropriately
20 inserted and to read as follows:

21 "Candidate" means an individual who seeks nomination for
22 election, or seeks election to office. An individual remains a



1 candidate until the individual's candidate committee terminates
2 registration with the commission. An individual is a candidate
3 if the individual does any of the following:

4 (1) Files nomination papers for an office for the
5 individual with the county clerk's office or with the
6 chief election officer's office, whichever is
7 applicable;

8 (2) Receives contributions, makes expenditures, or incurs
9 financial obligations of more than \$100 to bring about
10 the individual's nomination for election, or to bring
11 about the individual's election to office;

12 (3) Gives consent for any other person to receive
13 contributions, make expenditures, or incur financial
14 obligations to aid the individual's nomination for
15 election, or the individual's election, to office; or

16 (4) Is certified to be a candidate by the chief election
17 officer or county clerk.

18 "Candidate committee" means an organization, association,
19 or individual that receives campaign funds, makes expenditures,
20 or incurs financial obligations on behalf of a candidate with
21 the candidate's authorization.

22 "Committee" means:



- 1 (1) Any organization, association, or individual that
2 accepts or makes a contribution or makes an
3 expenditure for or against any:
- 4 (A) Candidate;
5 (B) Individual who files for nomination at a later
6 date and becomes a candidate; or
7 (C) Party;
8 with or without the authorization of the candidate,
9 individual, or party. In addition, the term
10 "committee" means any organization, association, or
11 individual who accepts or makes a contribution or
12 makes an expenditure for or against any question or
13 issue appearing on the ballot at the next applicable
14 election; or
- 15 (2) Any organization, association, or individual that
16 raises or holds money or anything of value for a
17 political purpose, with or without the consent or
18 knowledge of any:
- 19 (A) Candidate;
20 (B) Individual who files for nomination at a later
21 date and becomes a candidate; or
22 (C) Party; and



1 subsequently contributes money or anything of value
2 to, or makes expenditures on behalf of, the candidate,
3 individual, or party.

4 Notwithstanding any of the foregoing, the term
5 "committee" shall not include any individual making a
6 contribution or expenditure of the individual's own
7 funds or anything of value that the individual
8 originally acquired for the individual's own use and
9 not for the purpose of evading any provision of this
10 chapter, or any organization that raises or expends
11 funds for the sole purpose of the production and
12 dissemination of informational and educational
13 advertising.

14 "Contractual relationship" means the business relationship
15 between two or more parties, under which the parties make
16 promises to each other, the breach of which the law provides a
17 remedy, or the performance of which the law recognizes as a
18 duty.

19 "Contribution" includes a gift, subscription, forgiveness
20 of a loan, advance, or deposit of money, or anything of value
21 and includes a contract, promise, or agreement, whether or not
22 enforceable, to make a contribution."



1 SECTION 3. Section 84-17, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsections (b) and (c) to read:

4 "(b) The disclosure of financial interest required by this
5 section shall be filed:

6 (1) Between January 1 and May 31 of each year; provided
7 that the governor, lieutenant governor, and members of
8 the legislature shall file their financial disclosure
9 statements containing the information in subsection
10 (f) no later than January 31 after the beginning of
11 each regular legislative session;

12 (2) Within thirty days of one's election or appointment to
13 a state position enumerated in subsection (c); or

14 (3) Within thirty days of separation from a state position
15 if a prior financial disclosure statement for the
16 position was not filed within the one hundred eighty
17 days preceding the date of separation;

18 provided that candidates for state elective offices or the
19 constitutional convention shall file the required statements no
20 later than twenty days prior to the date of the primary election
21 for state offices or the election of delegates to the
22 constitutional convention.



1 (c) The following persons shall file annually with the
2 state ethics commission a disclosure of financial interests:

3 (1) The governor, the lieutenant governor, the members of
4 the legislature, and delegates to the constitutional
5 convention; provided that delegates to the
6 constitutional convention shall only be required to
7 file initial disclosures; provided further that the
8 governor, lieutenant governor, and members of the
9 legislature shall file their disclosure statements by
10 January 31 after the beginning of each regular
11 legislative session;

12 (2) The directors and their deputies, the division chiefs,
13 the executive directors and the executive secretaries
14 and their deputies, the purchasing agents and the
15 fiscal officers, regardless of the titles by which the
16 foregoing persons are designated, of every state
17 agency and department;

18 (3) The permanent employees of the legislature and its
19 service agencies, other than persons employed in
20 clerical, secretarial, or similar positions;

21 (4) The administrative director of the State, and the
22 assistants in the office of the governor and the



- 1 lieutenant governor, other than persons employed in
2 clerical, secretarial, or similar positions;
- 3 (5) The hearings officers of every state agency and
4 department;
- 5 (6) The president, the vice presidents, assistant vice
6 presidents, the chancellors, and the provosts of the
7 University of Hawaii and its community colleges;
- 8 (7) The superintendent, the deputy superintendent, the
9 assistant superintendents, the complex area
10 superintendents, the state librarian, and the deputy
11 state librarian of the department of education;
- 12 (8) The administrative director and the deputy director of
13 the courts;
- 14 (9) The members of every state board or commission whose
15 original terms of office are for periods exceeding one
16 year and whose functions are not solely advisory;
- 17 (10) Candidates for state elective offices, including
18 candidates for election to the constitutional
19 convention, provided that candidates shall only be
20 required to file initial disclosures; and
- 21 (11) The administrator and assistant administrator of the
22 office of Hawaiian affairs."



1 2. By amending subsection (f) to read:

2 "(f) Candidates for state elective offices, including
3 candidates for election to the constitutional convention, shall
4 only be required to disclose their own financial interests. The
5 disclosures of financial interests of all other persons
6 designated in subsection (c) shall state, in addition to the
7 financial interests of the person disclosing, the financial
8 interests of the person's spouse and dependent children. All
9 disclosures shall include:

10 (1) The source and amount of all income of \$1,000 or more
11 received, for services rendered, by the person in the
12 person's own name or by any other person for the
13 person's use or benefit during the preceding calendar
14 year and the nature of the services rendered; provided
15 that information that may be privileged by law or
16 individual items of compensation that constitute a
17 portion of the gross income of the business or
18 profession from which the person derives income need
19 not be disclosed;

20 (2) The amount and identity of every ownership or
21 beneficial interest held during the disclosure period
22 in any business having a value of \$5,000 or more or



1 equal to ten per cent of the ownership of the business
2 and, if the interest was transferred during the
3 disclosure period, the date of the transfer; provided
4 that an interest in the form of an account in a
5 federal or state regulated financial institution, an
6 interest in the form of a policy in a mutual insurance
7 company, or individual items in a mutual fund or a
8 blind trust, if the mutual fund or blind trust has
9 been disclosed pursuant to this paragraph, need not be
10 disclosed;

11 (3) Every officership, directorship, trusteeship, or other
12 fiduciary relationship held in a business during the
13 disclosure period, the term of office and the annual
14 compensation;

15 (4) The name of each creditor to whom the value of \$3,000
16 or more was owed during the disclosure period and the
17 original amount and amount outstanding; provided that
18 debts arising out of retail installment transactions
19 for the purchase of consumer goods need not be
20 disclosed;

21 (5) The street address and, if available, the tax map key
22 number, and the value of any real property in which



1 the person holds an interest whose value is \$10,000 or
2 more, and, if the interest was transferred or obtained
3 during the disclosure period, a statement of the
4 amount and nature of the consideration received or
5 paid in exchange for such interest, and the name of
6 the person furnishing or receiving the consideration;
7 provided that disclosure shall not be required of the
8 street address and tax map key number of the person's
9 residence;

10 (6) The names of clients personally represented before
11 state agencies, except in ministerial matters, for a
12 fee or compensation during the disclosure period and
13 the names of the state agencies involved; [and]

14 (7) The amount and identity of every creditor interest in
15 an insolvent business held during the disclosure
16 period having a value of \$5,000 or more [-]; and

17 (8) All contractual relationships in existence during the
18 disclosure period between the person and a lobbyist or
19 a person who has hired a lobbyist, the names of the
20 parties to the contract, a description of the
21 contract, and monetary amounts of \$1,000 or more paid



1 by one party to another party under the contract
2 during the disclosure period."

3 SECTION 4. Chapter 97, Hawaii Revised Statutes, is amended
4 by amending its title to read as follows:

5 "CHAPTER 97

6 LOBBYISTS; LOBBYING ACTIVITIES"

7 SECTION 5. Section 97-1, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "§97-1 Definitions. When used in this chapter:

10 [~~1~~] "Administrative action" means the proposal, drafting,
11 consideration, amendment, enactment, or defeat by any
12 administrative agency of any rule, regulation, or other action
13 governed by section 91-3.

14 [~~2~~] "Administrative agency" means a commission, board,
15 agency, or other body, or official in the state government that
16 is not a part of the legislative or judicial branch.

17 "Candidate" means an individual who seeks nomination for
18 election, or seeks election, to office. An individual remains a
19 candidate until the individual's candidate committee terminates
20 registration with the commission. An individual is a candidate
21 if the individual does any of the following:



1 (1) Files nomination papers for an office for the
2 individual with the county clerk's office or with the
3 chief election officer's office, whichever is
4 applicable;

5 (2) Receives contributions, makes expenditures, or incurs
6 financial obligations of more than \$100 to bring about
7 the individual's nomination for election, or to bring
8 about the individual's election to office;

9 (3) Gives consent for any other person to receive
10 contributions, make expenditures, or incur financial
11 obligations to aid the individual's nomination for
12 election, or the individual's election, to office; or

13 (4) Is certified to be a candidate by the chief election
14 officer or county clerk.

15 "Candidate committee" means an organization, association,
16 or individual that receives campaign funds, makes expenditures,
17 or incurs financial obligations on behalf of a candidate with
18 the candidate's authorization.

19 "Committee" means:

20 (1) Any organization, association, or individual that
21 accepts or makes a contribution or makes an
22 expenditure for or against any:



- 1 (A) Candidate;
- 2 (B) Individual who files for nomination at a later
- 3 date and becomes a candidate; or
- 4 (C) Party;
- 5 with or without the authorization of the candidate,
- 6 individual, or party. In addition, the term
- 7 "committee" means any organization, association, or
- 8 individual who accepts or makes a contribution or
- 9 makes an expenditure for or against any question or
- 10 issue appearing on the ballot at the next applicable
- 11 election; or
- 12 (2) Any organization, association, or individual that
- 13 raises or holds money or anything of value for a
- 14 political purpose, with or without the consent or
- 15 knowledge of any:
- 16 (A) Candidate;
- 17 (B) Individual who files for nomination at a later
- 18 date and becomes a candidate; or
- 19 (C) Party; and
- 20 subsequently contributes money or anything of value
- 21 to, or makes expenditures on behalf of, the candidate,
- 22 individual, or party.



1 Notwithstanding any of the foregoing, the term
2 "committee" shall not include any individual making a
3 contribution or expenditure of the individual's own
4 funds or anything of value that the individual
5 originally acquired for the individual's own use and
6 not for the purpose of evading any provision of this
7 chapter; or any organization that raises or expends
8 funds for the sole purpose of the production and
9 dissemination of informational and educational
10 advertising.

11 "Contractual relationship" means the business relationship
12 between two or more parties, under which the parties make
13 promises to each other, the breach of which the law provides a
14 remedy, or the performance of which the law recognizes as a
15 duty.

16 ~~[-3-]~~ "Contribution" includes a gift, subscription,
17 forgiveness of a loan, advance, or deposit of money, or anything
18 of value and includes a contract, promise, or agreement, whether
19 or not enforceable, to make a contribution.

20 ~~[-4-]~~ "Expenditure" includes a payment, distribution,
21 forgiveness of a loan, advance, deposit, or gift of money, or
22 anything of value and includes a contract, promise, or



1 agreement, whether or not enforceable, to make an expenditure.
2 "Expenditure" also includes compensation or other consideration
3 paid to a lobbyist for the performance of lobbying services.
4 "Expenditure" excludes the expenses of preparing written
5 testimony and exhibits for a hearing before the legislature or
6 an administrative agency.

7 ~~[-5]~~ "Legislative action" means the sponsorship, drafting,
8 introduction, consideration, modification, enactment, or defeat
9 of any bill, resolution, amendment, report, nomination,
10 appointment, or any other matter pending or proposed in the
11 legislature.

12 ~~[-6]~~ "Lobbyist" means any individual who for pay or other
13 consideration engages in lobbying in excess of five
14 hours in any month of any reporting period described
15 in section 97-3 or spends more than \$750 lobbying
16 during any reporting period described in section 97-3.

17 ~~[-7]~~ "Lobbying" means communicating directly or through an
18 agent, or soliciting others to communicate, with any official in
19 the legislative or executive branch, for the purpose of
20 attempting to influence legislative or administrative action or
21 a ballot issue.



1 "Lobbyist" means any individual who for pay or other
2 consideration engages in lobbying in excess of five hours in any
3 month of any reporting period described in section 97-3 or
4 spends more than \$750 lobbying during any reporting period
5 described in section 97-3.

6 ~~[-8]~~ "Person" means a corporation, individual, union,
7 association, firm, sole proprietorship, partnership, committee,
8 club, or any other organization or a representative of a group
9 of persons acting in concert."

10 SECTION 6. Section 97-3, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§97-3 Contributions and expenditures; statement. (a)**

13 The following persons shall file a statement of contributions,
14 contractual relationships, and expenditures with the state
15 ethics commission [~~on March 31, May 31, and January 31 of each~~
16 ~~year;~~] by the dates set forth in subsection (b):

- 17 (1) Each lobbyist ~~[-]~~;
- 18 (2) Each person who spends \$750 or more of the person's or
19 any other person's money in any ~~[six-month]~~ reporting
20 period for the purpose of attempting to influence
21 legislative or administrative action or a ballot issue
22 by communicating or urging others to communicate with



1 public officials; provided that any amounts expended
2 for travel costs, including incidental meals and
3 lodging, shall not be included in the tallying of the
4 \$750 [-]; and

5 (3) Each person who employs or contracts for the services
6 of one or more lobbyists, whether independently or
7 jointly with other persons. If the person is an
8 industry, trade, or professional association, only the
9 association is the employer of the lobbyist.

10 (b) ~~[The March 31 report shall cover the period from~~
11 ~~January 1 through the last day of February. The May 31 report~~
12 ~~shall cover the period from March 1 through April 30. The~~
13 ~~January 31 report shall cover the period from May 1 through~~
14 ~~December 31 of the previous year.] The persons described in~~
15 subsection (a) shall file a report for each month during the
16 period from January through May of each year, and for any other
17 month during the year in which the legislature is in session.
18 Each monthly report shall be filed within fifteen calendar days
19 following the end of the month for which a report is required.
20 Additionally, the persons described in subsection (a) shall file
21 a report on January 15 of each year for the period covering
22 June 1 through December 31 of the preceding year.



1 (c) The statement shall contain the following information:

2 (1) The name and address of each person with respect to
3 whom expenditures for the purpose of lobbying in the
4 total sum of \$25 or more per day was made by the
5 person filing the statement during the statement
6 period and the amount or value of such expenditure;

7 (2) The name and address of each person with respect to
8 whom expenditures for the purpose of lobbying in the
9 aggregate of \$150 or more was made by the person
10 filing the statement during the statement period and
11 the amount or value of such expenditures;

12 (3) The total sum or value of all expenditures for the
13 purpose of lobbying made by the person filing the
14 statement during the statement period in excess of
15 \$750 during the statement period;

16 (4) The name and address of each person making
17 contributions to the person filing the statement for
18 the purpose of lobbying in the total sum of \$25 or
19 more during the statement period and the amount or
20 value of such contributions; [and]



1 (5) The subject area of the legislative and administrative
2 action which was supported or opposed by the person
3 filing the statement during the statement period[-];

4 (6) All campaign contributions made by the person to a
5 candidate, candidate's committee, or elected state
6 official during the statement period;

7 (7) All contractual relationships in existence during the
8 statement period between the person and any
9 legislator, the name of the parties to the contract, a
10 description of the contract, and the amount of any
11 money exchanged pursuant to the contract during the
12 statement period; and

13 (8) For each event attended by members of the legislature
14 that costs an average of \$25 or more per person or a
15 total of \$500 including the cost of gifts, a statement
16 describing the event, including the date of the event,
17 the cost of the event, and the names of members of the
18 legislature who attended the event.

19 ~~[-(d) The receipt or expenditure of any money for the~~
20 ~~purpose of influencing the election or defeat of any candidate~~
21 ~~for an elective office or for the passage or defeat of any~~



1 ~~proposed measure at any special or general election is excluded~~
2 ~~from the reporting requirement of this section.] "~~

3 SECTION 7. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 8. This Act shall take effect upon its approval.

6

INTRODUCED BY: *[Signature]*

[Signature]



Report Title:

Ethics; Disclosures; Lobbyists; Legislators; State Employees

Description:

Requires lobbyists and their clients to make monthly disclosures during any month the legislature is in session, and a report for June 1 through December 31. Adds required disclosures regarding lobbying events, contractual relationships with legislators, and campaign contributions. Requires the governor, lieutenant governor, and legislators to file their financial disclosures by January 31 after the beginning of the regular legislative session. Requires certain state employees to disclose contractual relationships with lobbyists and their clients.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

