

JAN 20 2017

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 lobbyist and public official
16 financial disclosure laws do not require lobbyists or public
17 officials to report contracts for work between lobbyists and



1 public officials if they are business professionals.
2 Legislators who are attorneys, realtors, certified public
3 accountants, insurance agents, contractors, and marketing and
4 other consultants, and who engage in private business are not
5 required to disclose their contracts with parties that lobby the
6 legislature. Lobbyists are also not required to disclose these
7 contractual relationships, even if the contractual relationship
8 provides a significant source of income to the legislator.

9 The lobbyist disclosure law also does not provide for the
10 disclosure of other ways of influencing policy makers. During
11 legislative deliberations, lobbyists can donate significantly to
12 the political campaigns of legislators, and the disclosure
13 reports that are required to be filed are not due until after
14 the legislature adjourns. Therefore, even if a legislator takes
15 initiative to disclose financial relationships with lobbyists,
16 the information is not available to the public when it is most
17 relevant.

18 The purpose of this Act is to strengthen the democracy of
19 our State by providing for transparency and fairness in the
20 following ways:



- 1 (1) Requiring lobbyists and public officials to report
2 their financial and contractual relationships and
3 transaction amounts;
- 4 (2) Requiring lobbyists to disclose certain events
5 attended by legislators;
- 6 (3) Requiring lobbyists and their clients to disclose all
7 campaign donations made during the legislative
8 session;
- 9 (4) Requiring lobbyists to file disclosure reports at the
10 end of each of the months that the legislature is in
11 session;
- 12 (5) Requiring legislators, the governor, and the
13 lieutenant governor to file financial disclosure
14 reports by January 31 after the beginning of each
15 regular legislative session;
- 16 (6) Amending the definition of "administrative action" to
17 include granting or denying an application for a
18 business- or development-related permit, license, or
19 approval and the procurement of goods and services
20 through contracts covered by the procurement code; and



1 (7) Requiring the state ethics commission to receive
2 electronic statements in lieu of paper documents
3 required to be filed pursuant to chapter 97, Hawaii
4 Revised Statutes.

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

8 "Candidate" means an individual who seeks nomination for
9 election, or seeks election to office. An individual remains a
10 candidate until the individual's candidate committee terminates
11 registration with the commission. An individual is a candidate
12 if the individual does any of the following:

13 (1) Files nomination papers for an office for the
14 individual with the county clerk's office or with the
15 chief election officer's office, whichever is
16 applicable;

17 (2) Receives contributions, makes expenditures, or incurs
18 financial obligations of more than \$100 to bring about
19 the individual's nomination for election, or to bring
20 about the individual's election to office;



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

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

7 "Candidate committee" means an organization, association,
8 or individual that receives campaign funds, makes expenditures,
9 or incurs financial obligations on behalf of a candidate with
10 the candidate's authorization.

11 "Committee" means:

12 (1) Any organization, association, or individual that
13 accepts or makes a contribution or makes an
14 expenditure for or against any:

15 (A) Candidate;

16 (B) Individual who files for nomination at a later
17 date and becomes a candidate;

18 (C) Party; or

19 (D) Question or issue appearing on the ballot at the
20 next applicable election with or without the



1 authorization of the candidate, individual, or
2 party; or

3 (2) Any organization, association, or individual that
4 raises or holds money or anything of value for a
5 political purpose, with or without the consent or
6 knowledge of any:

7 (A) Candidate;

8 (B) Individual who files for nomination at a later
9 date and becomes a candidate; or

10 (C) Party; and
11 subsequently contributes money or anything of value
12 to, or makes expenditures on behalf of, the candidate,
13 individual, or party.

14 Notwithstanding any of the foregoing, the term
15 "committee" shall not include any individual making a
16 contribution or expenditure of the individual's own
17 funds or anything of value that the individual
18 originally acquired for the individual's own use and
19 not for the purpose of evading any provision of this
20 chapter, or any organization that raises or expends
21 funds for the sole purpose of the production and



1 dissemination of informational and educational
2 advertising.

3 "Contractual relationship" means the business relationship
4 between two or more parties, under which the parties make
5 promises to each other, the breach of which the law provides a
6 remedy, or the performance of which the law recognizes as a
7 duty.

8 "Contribution" includes a gift, subscription, forgiveness
9 of a loan, advance, or deposit of money, or anything of value
10 and includes a contract, promise, or agreement, whether or not
11 enforceable, to make a contribution."

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

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

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

17 (1) By any person enumerated in subsection (c), except the
18 governor, lieutenant governor, and a member of the
19 legislature, between January 1 and May 31 of each
20 year;



1 (2) By the governor, lieutenant governor, and a member of
2 the legislature between January 1 and January 31 of
3 each year;

4 (3) Within thirty days of a person's election or
5 appointment to a state position enumerated in
6 subsection (c); or

7 (4) Within thirty days of separation from a state position
8 if a prior financial disclosure statement for the
9 position was not filed within the one hundred eighty
10 days preceding the date of separation;

11 provided that candidates for state elective offices or the
12 constitutional convention shall file the required statements no
13 later than twenty days prior to the date of the primary election
14 for state offices or the election of delegates to the
15 constitutional convention.

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

18 (1) The governor, the lieutenant governor, the members of
19 the legislature, and delegates to the constitutional
20 convention; provided that delegates to the
21 constitutional convention shall only be required to



1 file initial disclosures; provided further that the
2 governor, lieutenant governor, and members of the
3 legislature shall file their financial disclosure
4 statements by January 31 after the beginning of each
5 regular legislative session;

6 (2) The directors and their deputies, the division chiefs,
7 the executive directors and the executive secretaries
8 and their deputies, the purchasing agents and the
9 fiscal officers, regardless of the titles by which the
10 foregoing persons are designated, of every state
11 agency and department;

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

15 (4) The administrative director of the State, and the
16 assistants in the office of the governor and the
17 lieutenant governor, other than persons employed in
18 clerical, secretarial, or similar positions;

19 (5) The hearings officers of every state agency and
20 department;



- 1 (6) The president, the vice presidents, assistant vice
2 presidents, the chancellors, and the provosts of the
3 University of Hawaii and its community colleges;
- 4 (7) The superintendent, the deputy superintendent, the
5 assistant superintendents, the complex area
6 superintendents, the state librarian, and the deputy
7 state librarian of the department of education;
- 8 (8) The administrative director and the deputy director of
9 the courts;
- 10 (9) The members of every state board or commission whose
11 original terms of office are for periods exceeding one
12 year and whose functions are not solely advisory;
- 13 (10) Candidates for state elective offices, including
14 candidates for election to the constitutional
15 convention, provided that candidates shall only be
16 required to file initial disclosures;
- 17 (11) The administrator and assistant administrator of the
18 office of Hawaiian affairs; and
- 19 (12) The Hawaii unmanned aerial systems test site chief
20 operating officer."
- 21 2. By amending subsection (f) to read:



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

9 (1) The source and amount of all income of \$1,000 or more
10 received, for services rendered, by the person in the
11 person's own name or by any other person for the
12 person's use or benefit during the preceding calendar
13 year and the nature of the services rendered; provided
14 that required disclosure under this paragraph for the
15 income source of the spouse or dependent child of a
16 person subject to subsection (d) shall be limited to
17 the name of the business or other qualifying source of
18 income, and need not include the income source's
19 address; provided further that other information that
20 may be privileged by law or individual items of
21 compensation that constitute a portion of the gross



1 income of the business or profession from which the
2 person derives income need not be disclosed;

3 (2) The amount and identity of every ownership or
4 beneficial interest held during the disclosure period
5 in any business having a value of \$5,000 or more or
6 equal to ten per cent of the ownership of the business
7 and, if the interest was transferred during the
8 disclosure period, the date of the transfer; provided
9 that an interest in the form of an account in a
10 federal or state regulated financial institution, an
11 interest in the form of a policy in a mutual insurance
12 company, or individual items in a mutual fund or a
13 blind trust, if the mutual fund or blind trust has
14 been disclosed pursuant to this paragraph, need not be
15 disclosed;

16 (3) Every officership, directorship, trusteeship, or other
17 fiduciary relationship held in a business during the
18 disclosure period, the term of office and the annual
19 compensation;

20 (4) The name of each creditor to whom the value of \$3,000
21 or more was owed during the disclosure period and the



1 original amount and amount outstanding; provided that
2 debts arising out of retail installment transactions
3 for the purchase of consumer goods need not be
4 disclosed;

5 (5) The street address and, if available, the tax map key
6 number, and the value of any real property in which
7 the person holds an interest whose value is \$10,000 or
8 more, and, if the interest was transferred or obtained
9 during the disclosure period, a statement of the
10 amount and nature of the consideration received or
11 paid in exchange for such interest, and the name of
12 the person furnishing or receiving the consideration;
13 provided that disclosure shall not be required of the
14 street address and tax map key number of the person's
15 residence;

16 (6) The names of clients personally represented before
17 state agencies, except in ministerial matters, for a
18 fee or compensation during the disclosure period and
19 the names of the state agencies involved; [~~and~~]



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

4 (8) All contractual relationships in existence during the
5 disclosure period between the person and a lobbyist or
6 a person who has hired a lobbyist, the names of the
7 parties to the contract, a description of the
8 contract, and monetary amounts of \$1,000 or more paid
9 by one party to another party under the contract
10 during the disclosure period."

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

13 "CHAPTER 97

14 LOBBYISTS; LOBBYING ACTIVITIES"

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

17 "§97-1 Definitions. When used in this chapter:

18 [~~1~~] "Administrative action" means the [~~proposal~~]:

19 (1) Proposal, drafting, consideration, amendment,
20 enactment, or defeat by any administrative agency of



1 any rule, regulation, or other action governed by
2 section 91-3 [-];

3 (2) Granting or denying by an administrative agency of an
4 application for a business- or development-related
5 permit, license, or approval as required by state law;
6 or

7 (3) Procurement of goods and services through contracts
8 covered by the Hawaii public procurement code.

9 [+2] "Administrative agency" means a commission, board,
10 agency, or other body, or official in the state
11 government that is not a part of the legislative or
12 judicial branch.

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

18 (1) Files nomination papers for an office for the
19 individual with the county clerk's office or with the
20 chief election officer's office, whichever is
21 applicable;



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

5 (3) Gives consent for any other person to receive
6 contributions, make expenditures, or incur financial
7 obligations to aid the individual's nomination for
8 election, or the individual's election, to office; or

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

11 "Candidate committee" means an organization, association,
12 or individual that receives campaign funds, makes expenditures,
13 or incurs financial obligations on behalf of a candidate with
14 the candidate's authorization.

15 "Committee" means:

16 (1) Any organization, association, or individual that
17 accepts or makes a contribution or makes an
18 expenditure for or against any:

19 (A) Candidate;

20 (B) Individual who files for nomination at a later
21 date and becomes a candidate;



- 1 (C) Party; or
- 2 (D) Question or issue appearing on the ballot at the
- 3 next applicable election, with or without the
- 4 authorization of the candidate, individual, or
- 5 party; or

6 (2) Any organization, association, or individual that
7 raises or holds money or anything of value for a
8 political purpose, with or without the consent or
9 knowledge of any:

- 10 (A) Candidate;
- 11 (B) Individual who files for nomination at a later
- 12 date and becomes a candidate; or
- 13 (C) Party; and
- 14 subsequently contributes money or anything of value
- 15 to, or makes expenditures on behalf of, the candidate,
- 16 individual, or party.

17 Notwithstanding any of the foregoing, the term
18 "committee" shall not include any individual making a
19 contribution or expenditure of the individual's own
20 funds or anything of value that the individual
21 originally acquired for the individual's own use and



1 not for the purpose of evading any provision of this
2 chapter or any organization that raises or expends
3 funds for the sole purpose of the production and
4 dissemination of informational and educational
5 advertising.

6 "Contractual relationship" means the business relationship
7 between two or more parties, under which the parties make
8 promises to each other, the breach of which the law provides a
9 remedy, or the performance of which the law recognizes as a
10 duty.

11 ~~[(3)]~~ "Contribution" includes a gift, subscription,
12 forgiveness of a loan, advance, or deposit of money, or anything
13 of value and includes a contract, promise, or agreement, whether
14 or not enforceable, to make a contribution.

15 ~~[(4)]~~ "Expenditure" includes a payment, distribution,
16 forgiveness of a loan, advance, deposit, or gift of money, or
17 anything of value and includes a contract, promise, or
18 agreement, whether or not enforceable, to make an expenditure.

19 ~~["Expenditure" also]~~ The term includes compensation or other
20 consideration paid to a lobbyist for the performance of lobbying
21 services. ~~["Expenditure"]~~ The term excludes the expenses of



1 preparing written testimony and exhibits for a hearing before
2 the legislature or an administrative agency.

3 ~~[(5)]~~ "Legislative action" means the sponsorship,
4 drafting, introduction, consideration, modification, enactment,
5 or defeat of any bill, resolution, amendment, report,
6 nomination, appointment, or any other matter pending or proposed
7 in the legislature.

8 ~~[(6)] "Lobbyist" means any individual who for pay or other~~
9 ~~consideration engages in lobbying in excess of five hours in any~~
10 ~~month of any reporting period described in section 97-3 or~~
11 ~~spends more than \$750 lobbying during any reporting period~~
12 ~~described in section 97-3.~~

13 ~~(7)]~~ "Lobbying" means communicating directly or through an
14 agent, or soliciting others to communicate, with any official in
15 the legislative or executive branch, for the purpose of
16 attempting to influence legislative or administrative action or
17 a ballot issue.

18 "Lobbyist" means any individual who for pay or other
19 consideration engages in lobbying in excess of five hours in any
20 month of any reporting period described in section 97-3 or



1 spends more than \$750 lobbying during any reporting period
2 described in section 97-3.

3 [~~8~~] "Person" means a corporation, individual, union,
4 association, firm, sole proprietorship, partnership, committee,
5 club, or any other organization or a representative of a group
6 of persons acting in concert."

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

9 "§97-3 Contributions and expenditures; statement. (a)

10 The following persons shall file a statement of contributions,
11 contractual relationships, and expenditures with the state
12 ethics commission [~~on March 31, May 31, and January 31 of each~~
13 ~~year and within thirty days after adjournment sine die of any~~
14 ~~special session of the legislature;~~] by the dates set forth in
15 subsection (b):

- 16 (1) Each lobbyist;
- 17 (2) Each person who spends \$750 or more of the person's or
18 any other person's money in any [~~six month~~] reporting
19 period for the purpose of attempting to influence
20 legislative or administrative action or a ballot issue
21 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 report to be filed within~~
15 ~~thirty days after adjournment sine die of a special session of~~
16 ~~the legislature shall cover the period from May 1 through~~
17 ~~adjournment sine die of that special session and shall apply to~~
18 ~~and include only those expenditures and contributions that~~
19 ~~relate to legislative action considered during that special~~
20 ~~session.] The persons described in subsection (a) shall file a~~
21 report for each month during the period from January through May



1 of each year; and for any other month during the year in which
2 the legislature is in session. Each monthly report shall be
3 filed within fifteen calendar days following the end of the
4 month for which a report is required. Additionally, the persons
5 described in subsection (a) shall file a report on January 15 of
6 each year for the period covering June 1 through December 31 of
7 the preceding year.

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

- 9 (1) The name and address of each person with respect to
10 whom expenditures for the purpose of lobbying in the
11 total sum of \$25 or more per day was made by the
12 person filing the statement during the statement
13 period and the amount or value of such expenditure;
- 14 (2) The name and address of each person with respect to
15 whom expenditures for the purpose of lobbying in the
16 aggregate of \$150 or more was made by the person
17 filing the statement during the statement period and
18 the amount or value of such expenditures;
- 19 (3) The total sum or value of all expenditures for the
20 purpose of lobbying made by the person filing the
21 statement during the statement period in excess of



1 \$750 during the statement period; provided that the
2 sum or value of each expenditure is itemized in the
3 following categories, as applicable:

4 (A) Preparation and distribution of lobbying
5 materials;

6 (B) Media advertising;

7 (C) Compensation paid to lobbyists;

8 (D) Fees paid to consultants or services;

9 (E) Entertainment and events;

10 (F) Receptions, meals, food, and beverages;

11 (G) Gifts;

12 (H) Loans; and

13 (I) Other disbursements;

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

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



- 1 (6) All campaign contributions made by the person to a
2 candidate, candidate's committee, or elected state
3 official during the statement period;
- 4 (7) All contractual relationships in existence during the
5 statement period between the person and any
6 legislator, the name of the parties to the contract, a
7 description of the contract, and the amount of any
8 money exchanged pursuant to the contract during the
9 statement period; and
- 10 (8) For each event attended by members of the legislature
11 that costs an average of \$25 or more per person or a
12 total of \$500 including the cost of gifts, a statement
13 describing the event, including the date of the event,
14 the cost of the event, and the names of members of the
15 legislature who attended the event.

16 ~~[(d) The receipt or expenditure of any money for the~~
17 ~~purpose of influencing the election or defeat of any candidate~~
18 ~~for an elective office or for the passage or defeat of any~~
19 ~~proposed measure at any special or general election is excluded~~
20 ~~from the reporting requirement of this section.] "~~



1 SECTION 7. Section 97-4, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§97-4 Manner of filing; public records. (a) Beginning
4 December 1, 2017, the state ethics commission shall accept from
5 any person who submits a statement required by this chapter an
6 electronic document in lieu of a paper document; provided that
7 the statement shall be submitted in a form approved by the state
8 ethics commission through the adoption of rules pursuant to
9 chapter 91.

10 (b) All statements required by this chapter to be filed
11 with the state ethics commission:

12 (1) Shall be deemed properly filed [~~when~~]:

13 (A) When delivered or deposited in an established
14 post office within the prescribed time, duly
15 stamped, registered, or certified, and directed
16 to the state ethics commission; provided,
17 however, in the event it is not received, a
18 duplicate of the statement shall be promptly
19 filed upon notice by the state ethics commission
20 of its nonreceipt; [~~and~~] or



1 SECTION 10. This Act shall take effect upon its approval.

2

INTRODUCED BY: *Yee Ahn J*

Paul E. Pull

BTG

Will Zuo
S. L. Livers

Breene Hunt

J. J. J.



S.B. NO. 626

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. Amends the definition of "administrative action" to include granting or denying an application for a business- or development-related permit, license, or approval and the procurement of goods and services through contracts covered by the procurement code. Requires the state ethics commission to accept electronically filed documents.

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

