
A BILL FOR AN ACT

RELATING TO LOBBYISTS.

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

1 SECTION 1. The legislature finds that the existing mens
2 rea requirement to prove a violation of the lobbyist law,
3 section 97-7, Hawaii Revised Statutes, is no longer appropriate
4 given that the failure to file a statement or report with the
5 state ethics commission is no longer a criminal offense.

6 Accordingly, the purpose of this Act is to:

- 7 (1) Remove restriction on access to transcripts from
8 public contested hearings;
- 9 (2) Remove the requirement to prove that a violation of
10 the lobbyist law was done wilfully and replacing it
11 with a requirement to prove that a violation was done
12 negligently; and
- 13 (3) Allow the state ethics commission to assess an
14 administrative fine pursuant to a settlement
15 agreement.

16 SECTION 2. Section 97-6, Hawaii Revised Statutes, is
17 amended by amending subsection (c) to read as follows:



1 "(c) If after twenty days following service of the charge
2 and further statement of alleged violation in accordance with
3 this section, a majority of the members of the commission
4 conclude that there is probable cause to believe that a
5 violation of this chapter has been committed, then the
6 commission shall set a time and place for a hearing, giving
7 notice to the complainant and the alleged violator in the same
8 manner as provided in subsection (b). Upon the commission's
9 issuance of a notice of hearing, the charge and further
10 statement of alleged violation and the alleged violator's
11 written response thereto shall become public records. The
12 hearing shall be held within ninety days of the commission's
13 issuance of a notice of hearing. If the hearing is not held
14 within that ninety-day period, the charge and further statement
15 of alleged violation shall be dismissed; provided that any delay
16 that is at the request of, or caused by, the alleged violator
17 shall not be counted against the ninety-day period.

18 All parties shall have an opportunity to:

- 19 (1) Be heard;
- 20 (2) Subpoena witnesses and require the production of any
21 books or papers relative to the proceedings;



1 (3) Be represented by counsel; and

2 (4) Have the right of cross-examination.

3 All hearings shall be in accordance with chapter 91. All
4 witnesses shall testify under oath and the hearings shall be
5 open to the public. The commission shall not be bound by the
6 strict rules of evidence but the commission's findings shall be
7 based on competent and substantial evidence.

8 All testimony and other evidence taken at the hearing shall
9 be recorded. [~~Copies of transcripts of the record shall be~~
10 ~~available only to the complainant and the alleged violator at~~
11 ~~their own expense.~~] All fees collected under this chapter shall
12 be deposited into the general fund."

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

15 "§97-7 Penalties; administrative fines. (a) Any person
16 who:

17 (1) [~~Wilfully fails~~] Negligently fails to file any
18 statement or report required by this chapter;

19 (2) [~~Wilfully files~~] Negligently files a statement or
20 report containing false information or material
21 omission of any fact;



1 (3) Engages in activities prohibited by section 97-5; or

2 (4) Fails to provide information required by section 97-2
3 or 97-3;

4 shall be subject to an administrative fine imposed by the state
5 ethics commission that shall not exceed \$1,000 for each
6 violation of this chapter. All fines collected under this
7 section shall be deposited into the general fund.

8 (b) No fine shall be assessed unless[+] the state ethics
9 commission:

10 (1) [~~The commission convenes~~] Convenes a hearing in
11 accordance with section 97-6(c) and chapter 91[+] and
12 renders a decision; or

13 (2) [~~A decision has been rendered by the commission.~~]
14 Together with the alleged violator, agrees to resolve
15 any alleged violation prior to completion of the
16 contested case process, provided that the resolution
17 includes payment of an administrative fine or
18 restitution, or both."

19 SECTION 4. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun before its effective date.



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect upon its approval.

4



Report Title:

State Ethics Commission Package; Transcripts; Lobbyists; Fines

Description:

Removes restriction on access to transcripts from public contested hearings. Removes statutory remnants from when violations of the lobbyist law resulted in criminal penalties. Allows the state ethics commission to assess an administrative fine pursuant to a settlement agreement. (SD1)

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

