
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 established under section 97-7, Hawaii Revised
3 Statutes, to prove a violation of the lobbyist law is no longer
4 appropriate, since the failure to file a statement or report
5 with the state ethics commission is no longer a criminal
6 offense. Accordingly, the purpose of this Act is to:

7 (1) Repeal the restriction on access to transcripts from
8 public contested hearings;

9 (2) Repeal the requirement of proof that a violation of
10 the lobbyist law was committed wilfully and replace it
11 with a requirement of proof that the violation was
12 committed negligently; and

13 (3) Authorize 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~~] Negligently fails to file any statement or
18 report required by this chapter;
19 (2) [~~Wilfully~~] Negligently files a statement or report
20 containing false information or material omission of
21 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 before the 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 on July 1, 2050.



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. Effective 7/1/2050.
(SD2)

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