

JAN 24 2005

S.B. NO. 627

A BILL FOR AN ACT

RELATING TO ETHICS.

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

1 SECTION 1. When state officials are embroiled in conflict-
2 of-interest situations, there is a public perception that they
3 are being improperly influenced by their personal or financial
4 interests. This Act seeks to avoid the perception of wrongdoing
5 and build public confidence in state officials and government
6 decision-making.

7 SECTION 2. Section 84-14, Hawaii Revised Statutes, is
8 amended by amending subsection (a) to read as follows:

9 "(a) No employee shall take any official action directly
10 affecting:

11 (1) A business or other undertaking in which [~~he~~] the
12 employee has a substantial financial interest; [~~or~~]

13 (2) A private undertaking in which [~~he~~] the employee is
14 engaged as legal counsel, advisor, consultant,
15 representative, or other agency capacity[~~-~~]; or

16 (3) A business or undertaking in which the employee knows
17 or has reason to know that a sibling, a parent, an
18 emancipated child, or a household member has a



1 substantial financial interest; provided that the
2 financial interest of these individuals shall not
3 include those of any spouse or child.

4 A department head who is unable to disqualify [~~himself~~] the
5 department head's self on any matter described in [~~items~~]
6 paragraphs (1) and (2) [~~above~~] will not be in violation of this
7 subsection if [~~he~~] the department head has complied with the
8 disclosure requirements of section 84-17[~~and~~].

9 A person whose position on a board, commission, or
10 committee is mandated by statute, resolution, or executive order
11 to have particular qualifications shall only be prohibited from
12 taking official action that directly and specifically affects a
13 business or undertaking in which [~~he~~] that person has a
14 [~~substantial~~] financial interest; provided that the
15 [~~substantial~~] financial interest is related to [~~the member's~~]
16 that person's particular qualifications."

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

19 1. By amending subsection (d) to read:

20 "(d) The financial disclosure statements of the following
21 persons shall be public records and available for inspection and
22 duplication:

S.B. NO. 627

- 1 (1) The governor, the lieutenant governor, the members of
2 the legislature, candidates for and delegates to the
3 constitutional convention, the members of the board of
4 education, the trustees of the office of Hawaiian
5 affairs, and candidates for state elective offices;
- 6 (2) The directors of the state departments and their
7 deputies, regardless of the titles by which the
8 foregoing persons are designated; provided that with
9 respect to the department of the attorney general, the
10 foregoing shall apply only to the attorney general and
11 the first deputy attorney general;
- 12 (3) The administrative director of the State;
- 13 (4) The members of the board of regents, the president,
14 the vice presidents, the assistant vice presidents,
15 the chancellors, and the provosts of the University of
16 Hawaii;
- 17 (5) The superintendent, the deputy superintendent, the
18 state librarian, and the deputy state librarian of the
19 department of education;
- 20 (6) The administrative director and the deputy director of
21 the courts; [~~and~~]



1 (7) The administrator and the assistant administrator of
2 the office of Hawaiian affairs[-]; and

3 (8) The members of the board of land and natural
4 resources, the board of agriculture, the Hawaiian
5 homes commission, the stadium authority, the Hawaii
6 community development authority, the Hawaii tourism
7 authority, the natural energy laboratory of Hawaii
8 authority, and the Hawaii paroling authority."

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

10 "(f) Candidates for state elective offices, including
11 candidates for election to the constitutional convention, shall
12 only be required to disclose their own financial interests. The
13 disclosures of financial interests of all other persons
14 designated in subsection (c) shall state, in addition to the
15 financial interests of the person disclosing, the financial
16 interests of the person's spouse and dependent children. All
17 disclosures shall include:

18 (1) The source and amount of all income of \$1,000 or more
19 received, for services rendered, by the person in the
20 person's own name or by any other person for the
21 person's use or benefit during the preceding calendar
22 year and the nature of the services rendered; provided



1 that information that may be privileged by law or
2 individual items of compensation that constitute a
3 portion of the gross income of the business or
4 profession from which the person derives income need
5 not be disclosed;

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

20 (3) Every officership, directorship, trusteeship, or other
21 fiduciary relationship held in a business during the



- 1 disclosure period, the term of office and the annual
2 compensation;
- 3 (4) The name of each creditor to whom the value of \$3,000
4 or more was owed during the disclosure period and the
5 original amount and amount outstanding; provided that
6 debts arising out of retail installment transactions
7 for the purchase of consumer goods need not be
8 disclosed;
- 9 (5) The tax map key number and street address, if any, and
10 the value of any real property in the State in which
11 the person holds an interest whose value is \$10,000 or
12 more, and, if the interest was transferred or obtained
13 during the disclosure period, a statement of the
14 amount and nature of the consideration received or
15 paid in exchange for such interest, and the name of
16 the person furnishing or receiving the consideration;
- 17 (6) The names of clients personally represented before
18 state agencies, except in ministerial matters, for a
19 fee or compensation during the disclosure period and
20 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."

4 3. By amending subsection (g) to read:

5 "(g) Where an amount is required to be reported, the
6 person disclosing may indicate whether the amount is at least
7 \$1,000 but less than \$10,000; at least \$10,000 but less than
8 \$25,000; at least \$25,000 but less than \$50,000; at least
9 \$50,000 but less than \$100,000; at least \$100,000 but less than
10 \$150,000; at least \$150,000 but less than \$250,000; at least
11 \$250,000 but less than \$500,000; at least \$500,000 but less than
12 \$750,000; at least \$750,000 but less than \$1,000,000; or
13 \$1,000,000 or more. An amount of stock may be reported by
14 number of shares.

15 Members of the board of regents, the board of land and
16 natural resources, the board of agriculture, and the Hawaiian
17 homes commission who file public financial disclosure statements
18 need not report, where an amount is required to be reported, the
19 actual dollar value of the financial interest or the dollar
20 range of value."

21 SECTION 4. Section 84-31, Hawaii Revised Statutes, is
22 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 or of the code of ethics adopted by
6 the constitutional convention has been committed, then the
7 commission shall set a time and place for a hearing, giving
8 notice to the complainant and the alleged violator. If a
9 majority of the members of the commission conclude that there is
10 no probable cause to believe that a violation of this chapter or
11 the code of ethics adopted by the constitutional convention has
12 been committed, then the commission shall publish statewide a
13 notice of the commission's finding that the charge was
14 unsubstantiated and that a probable cause finding has not been
15 made, at which point the unsubstantiated charge and related
16 documents shall become public record. Upon the commission's
17 issuance of a notice of hearing, the charge and further
18 statement of alleged violation and the alleged violator's
19 written response thereto shall become public records. The
20 hearing shall be held within ninety days of the commission's
21 issuance of a notice of hearing. If the hearing is not held
22 within that ninety-day period, the charge and further statement



1 of alleged violation shall be dismissed; provided that any delay
2 that is at the request of, or caused by, the alleged violator
3 shall not be counted against the ninety-day period. All parties
4 shall have an opportunity to:

5 (1) [~~to be~~] Be heard[r];

6 (2) [~~to subpoena~~] Subpoena witnesses and require the
7 production of any books or papers relative to the
8 proceedings[r];

9 (3) [~~to be~~] Be represented by counsel; and

10 (4) [~~to have~~] Have the right of cross-examination.

11 All hearings shall be in accordance with chapter 91. All
12 witnesses shall testify under oath and the hearings shall be
13 open to the public. The commission shall not be bound by the
14 strict rules of evidence but the commission's findings must be
15 based upon competent and substantial evidence. All testimony
16 and other evidence taken at the hearing shall be recorded.

17 Copies of transcripts of such record shall be available only to
18 the complainant and the alleged violator at their own expense,
19 and the fees therefor shall be deposited in the State's general
20 fund."

S.B. NO. 627

1 SECTION 5. This Act does not affect rights and duties that
 2 matured, penalties that were incurred, and proceedings that were
 3 begun, before its effective date.

4 SECTION 6. Statutory material to be repealed is bracketed
 5 and stricken. New statutory material is underscored.

6 SECTION 7. This Act shall take effect on July 1, 2005.

7

INTRODUCED BY: *[Signature]*

~~*[Signature]*~~

Gay L. Han

[Signature]
 Clarence Nishihara

Quinn L. L.

Report Title:

Ethics; Conflicts of Interest; Prohibited Activities

Description:

Prohibits state board or commission members from doing business with their board. Prohibits public employees from taking actions that directly affect their families. Requires disclosure of financial interests for specified state board members, including the board of regents.

