

---

---

## 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 public trust in  
2 government is essential for our democracy to function  
3 effectively. One area of concern has been public perception of  
4 undue influence by lobbyists on legislative decisions. The  
5 current approach for addressing this concern has been to require  
6 registration of lobbyists and public disclosure of their  
7 expenditures and activities. However, Hawaii's lobbyist  
8 disclosure law appears to contain numerous loopholes that allow  
9 lobbyists to evade disclosure of their expenditures and  
10 activities. For example, a review of all lobbyist reports shows  
11 only eight disclosures of expenditures involving legislators.

12           Lobbyists are able to influence public decisions not only  
13 through their lobbying business, but also through contributions  
14 to political campaigns and gifts to public office. Even a  
15 series of gifts of small value can help build influential  
16 relationships with public officials. To ensure lobbyist



1 disclosures are accurate, the state ethics commission needs the  
2 authority and staffing to conduct spot audits.

3 While lobbying often occurs at the legislature, officials  
4 in the executive branch also make public decisions that involve  
5 lobbying, such as whether to veto a bill, release a project's  
6 funding, select a contractor, or approve permits. These  
7 lobbying activities should be included in the state law  
8 regulating lobbyists.

9 The purpose of this Act is to provide a more comprehensive  
10 law to govern lobbyists in the State.

11 SECTION 2. Chapter 97, Hawaii Revised Statutes, is amended  
12 by adding two new sections to be appropriately designated and to  
13 read as follows:

14 **"§97- Persons or entities that hire lobbyists;**  
15 **registration.** (a) Each person or entity that employs or  
16 contracts for the services of one or more lobbyists, whether  
17 independently or jointly with other persons, shall file a  
18 registration form with the state ethics commission within five  
19 days of hiring a lobbyist.

20 (b) Each person or entity shall provide and certify the  
21 following information:



1       (1) The name, mailing address, and business telephone  
2           number of the person or entity;

3       (2) The name and principal place of business of the person  
4           or entity; and

5       (3) The subject areas on which the lobbyist has been  
6           employed or contracted to lobby.

7       (c) A registered person or entity shall report any change  
8       in any of the information contained in the registration  
9       statement within ten days after the change has occurred.

10       (d) Any person or entity that is required to register  
11       under this section shall file a notice of termination within ten  
12       days after the lobbyist ceases the activity for which the  
13       lobbyist was hired. The person or entity shall remain subject,  
14       however, to the requirements of chapter 97, for the period  
15       during which the registration was effective.

16       §97- Retention of records. Each lobbyist shall retain  
17       all records, including financial documents, receipts, computer  
18       records, or other records necessary to substantiate  
19       compensation, for a period of four years."

20       SECTION 3. Section 97-1, Hawaii Revised Statutes, is  
21       amended to read as follows:

22       "**§97-1 Definitions.** When used in this chapter:



1        [~~1~~] "Administrative action" means the proposal,  
2 drafting, consideration, amendment, enactment, or defeat by any  
3 administrative agency of any rule, regulation, or other action  
4 governed by section 91-3~~[-]~~, taken by the governor, lieutenant  
5 governor, executive department directors, administrative boards,  
6 and public employees, excluding employees of the judiciary.

7        [~~2~~] "Administrative agency" means a commission, board,  
8 agency, or other body, or official in the state government that  
9 is not a part of the legislative or judicial branch.

10       [~~3~~] "Contribution" includes a gift, subscription,  
11 forgiveness of a loan, advance, or deposit of money, or anything  
12 of value and includes a contract, promise, or agreement, whether  
13 or not enforceable, to make a contribution.

14       [~~4~~] "Expenditure" includes a payment, distribution,  
15 forgiveness of a loan, advance, deposit, or gift of money, or  
16 anything of value and includes a contract, promise, or  
17 agreement, whether or not enforceable, to make an expenditure.

18 "Expenditure" also includes compensation or other consideration  
19 paid to a lobbyist for the performance of lobbying services.

20 "Expenditure" excludes the expenses of preparing written  
21 testimony and exhibits for a hearing before the legislature or  
22 an administrative agency.



1        [~~5~~] "Legislative action" means the sponsorship,  
2 drafting, introduction, consideration, modification, enactment,  
3 or defeat of any bill, resolution, amendment, report,  
4 nomination, appointment, or any other matter pending or proposed  
5 in the legislature.

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

11        [~~7~~] "Lobbying" means communicating directly or through  
12 an agent, or soliciting others to communicate, with any official  
13 in the legislative or executive branch, for the purpose of  
14 attempting to influence legislative or administrative action or  
15 a ballot issue.

16        [~~8~~] "Person" means a corporation, individual, union,  
17 association, firm, sole proprietorship, partnership, committee,  
18 club, or any other organization or a representative of a group  
19 of persons acting in concert."

20        SECTION 4. Section 97-2, Hawaii Revised Statutes, is  
21 amended by amending subsection (b) to read as follows:



1           "(b) Each lobbyist shall provide and certify the following  
2 ~~[information]~~:

3           (1) The name, mailing address, and business telephone  
4           number of the lobbyist~~[-]~~;

5           (2) The name and principal place of business of each  
6           person by whom the lobbyist is retained or employed or  
7           on whose behalf the lobbyist appears or works and a  
8           written authorization to act as a lobbyist from each  
9           person by whom the lobbyist is employed or with whom  
10          the lobbyist contracts~~[-]~~;

11          (3) The subject areas on which the lobbyist expects to  
12          lobby~~[-]~~;

13          (4) A photograph of the lobbyist; and

14          (5) A \$50 registration fee; provided that this fee shall  
15          not apply to non-profit organizations that have been  
16          determined and designated to be a non-profit  
17          organization by the Internal Revenue Service, with  
18          gross revenues of less than \$50,000 per year."

19          SECTION 5. Section 97-2.5, Hawaii Revised Statutes, is  
20 amended to read as follows:

21          "**§97-2.5 Renewal of registration.** (a) Each registered  
22 lobbyist shall renew the lobbyist's registration [~~biennially~~]



1 annually by filing a registration and authorization form with  
2 the state ethics commission within ten days of the opening of  
3 [~~the 1983~~] each regular session of the legislature [~~and on every~~  
4 ~~odd-numbered year's session thereafter~~]."

5 SECTION 6. Section 97-3, Hawaii Revised Statutes, is  
6 amended as follows:

7 1. By amending subsection (a) to read:

8 "(a) The following persons shall file a statement of  
9 expenditures with the state ethics commission on March 31,  
10 May 31, and January 31 of each year:

11 (1) Each lobbyist~~[-]~~;

12 (2) Each person who spends \$750 or more of the person's or  
13 any other person's money in any six-month period for  
14 the purpose of attempting to influence legislative or  
15 administrative action or a ballot issue by  
16 communicating or urging others to communicate with  
17 public officials; provided that any amounts expended  
18 for travel costs, including incidental meals and  
19 lodging, shall not be included in the tallying of the  
20 \$750~~[-]~~; and

21 (3) Each person who employs or contracts for the services  
22 of one or more lobbyists, whether independently or



1 jointly with other persons. If the person is an  
2 industry, trade, or professional association, only the  
3 association is the employer of the lobbyist."

4 2. By amending subsection (c) to read:

5 "(c) The statement shall contain the following  
6 information:

7 (1) ~~[The name and address of each person with respect to  
8 whom expenditures for the purpose of lobbying in the  
9 total sum of \$25 or more per day was made by the  
10 person filing the statement during the statement  
11 period and the amount or value of such expenditure;~~

12 ~~(2) The name and address of each person with respect to  
13 whom expenditures for the purpose of lobbying in the  
14 aggregate of \$150 or more was made by the person  
15 filing the statement during the statement period and  
16 the amount or value of such expenditures;~~

17 ~~(3)] The total sum or value of all expenditures for the  
18 purpose of lobbying made by the person filing the  
19 statement during the statement period in excess of  
20 \$750 during the statement period;~~

21 (2) Information on meetings or events, including dinners,  
22 receptions and parties, sponsored in whole or in part





1 by the lobbyist, to which public officials and their  
2 staff are invited, including the event purpose, date,  
3 names of attending public officials and staff, total  
4 amount paid for the event, and estimated value  
5 provided;

6 (3) Any campaign donations made or gifts given to public  
7 officials and staff, including the date of the  
8 donation or gift, the dollar amount of the  
9 contribution or value of the gift, and the name of the  
10 public official or staff that accepted or received the  
11 donation or gift;

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

17 (5) The subject area of the legislative and administrative  
18 action which was supported or opposed by the person  
19 filing the statement during the statement period[-];  
20 including any bill number or rule number, if  
21 applicable."



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

3 "**§97-6 Administration.** (a) The state ethics commission  
4 shall administer and implement this chapter, and shall have the  
5 following powers and duties:

- 6 (1) Initiate, receive, and consider charges concerning  
7 alleged violations of this chapter, and investigate or  
8 cause to be investigated on a confidential basis, the  
9 activities of any person to determine whether the  
10 person is in compliance with this chapter;
- 11 (2) Prescribe forms for the statements and reports  
12 required by sections 97-2 and 97-3 and establish  
13 orderly procedures for implementing the requirements  
14 of those provisions;
- 15 (3) Render advisory opinions upon the request of any  
16 person subject to this chapter. If no advisory  
17 opinion is rendered within thirty days after the  
18 request is filed with the commission, it shall be  
19 deemed that an advisory opinion was rendered and that  
20 the facts and circumstances of that particular case do  
21 not constitute a violation of this chapter. The  
22 opinion rendered or deemed rendered, until amended or



1           revoked, shall be binding on the commission in any  
2           subsequent charges concerning the person subject to  
3           this chapter who sought the opinion and acted in  
4           reliance on it in good faith, unless material facts  
5           were omitted or misstated by the person in the request  
6           for an advisory opinion;

7           (4) Issue subpoenas, administer oaths, and exercise those  
8           powers conferred upon the commission by section 92-16;

9           (5) Adopt rules, not inconsistent with this chapter, as in  
10          the judgment of the commission seem appropriate for  
11          the carrying out of this chapter and for the efficient  
12          administration of this chapter, including every matter  
13          or thing required to be done or which may be done with  
14          the approval or consent or by order or under the  
15          direction or supervision of, or as prescribed by, the  
16          commission. The rules, when adopted as provided in  
17          chapter 91, shall have the force and effect of law;

18          [and]

19          (6) Have jurisdiction for purposes of investigation and  
20          taking appropriate action on alleged violations of  
21          this chapter in all proceedings commenced within three  
22          years of an alleged violation of this chapter. A



1 proceeding shall be deemed commenced by the filing of  
2 a charge with the commission or by the signing of a  
3 charge by three or more members of the commission.

4 Nothing shall bar proceedings against a person who by  
5 fraud or other device prevents discovery of a  
6 violation of this chapter[-];

7 (7) Require that lobbyists attend training sessions on the  
8 requirements of this chapter; and

9 (8) Conduct audits, as may be necessary, to ensure the  
10 accuracy of all reports and information submitted  
11 pursuant to this chapter.

12 (b) Charges concerning the violation of this chapter shall  
13 be in writing, signed by the person making the charge under  
14 oath, except that any charge initiated by the commission shall  
15 be signed by three or more members of the commission. The  
16 commission shall notify in writing every person against whom a  
17 charge is received and afford the person an opportunity to  
18 explain the conduct alleged to be in violation of the chapter.  
19 The commission may investigate, after compliance with this  
20 section, such charges and render an informal advisory opinion to  
21 the alleged violator. The commission shall investigate all  
22 charges on a confidential basis, having available all the powers



1 herein provided, and proceedings at this stage shall not be  
2 public. If the informal advisory opinion indicates a probable  
3 violation, the person charged shall request a formal opinion or  
4 within a reasonable time comply with the informal advisory  
5 opinion. If the person charged fails to comply with such  
6 informal advisory opinion or if a majority of the members of the  
7 commission determine that there is probable cause for belief  
8 that a violation of this chapter might have occurred, a copy of  
9 the charge and a further statement of the alleged violation  
10 shall be personally served upon the alleged violator. Service  
11 shall be made by personal service upon the alleged violator  
12 wherever found or by registered or certified mail with request  
13 for a return receipt and marked deliver to addressee only. If  
14 after due diligence service cannot be effected successfully in  
15 accordance with the above, service may be made by publication if  
16 so ordered by the circuit court of the circuit wherein the  
17 alleged violator last resided. The commission shall submit to  
18 the circuit court for its consideration in issuing its order to  
19 allow service by publication an affidavit setting forth facts  
20 based upon the personal knowledge of the affiant concerning the  
21 methods, means, and attempts made to locate and effect service  
22 by personal service or by registered or certified mail in



1 accordance with the above. Service by publication when ordered  
2 by the court shall be made by publication once a week for four  
3 successive weeks of a notice in a newspaper of general  
4 circulation in the circuit of the alleged violator's last known  
5 state address. The alleged violator shall have twenty days  
6 after service thereof to respond in writing to the charge and  
7 statement.

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



1 that is at the request of, or caused by, the alleged violator  
2 shall not be counted against the ninety-day period.

3 All parties shall have an opportunity to:

4 (1) Be heard;

5 (2) Subpoena witnesses and require the production of any  
6 books or papers relative to the proceedings;

7 (3) Be represented by counsel; and

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

9 All hearings shall be in accordance with chapter 91. All  
10 witnesses shall testify under oath and the hearings shall be  
11 open to the public. The commission shall not be bound by the  
12 strict rules of evidence but the commission's findings shall be  
13 based on competent and substantial evidence.

14 All testimony and other evidence taken at the hearing shall  
15 be recorded. Copies of transcripts of the record shall be  
16 available only to the complainant and the alleged violator at  
17 their own expense. All fees collected under this chapter shall  
18 be deposited into the general fund.

19 (d) A decision of the commission pertaining to the conduct  
20 of any person subject to this chapter shall be in writing and  
21 signed by three or more of the members of the commission. A  
22 decision of the commission rendered after a hearing together



1 with findings and the record of the proceeding shall be a public  
2 record.

3 (e) A person who files a frivolous charge with the  
4 commission against any person covered by this chapter shall be  
5 civilly liable to the person charged for all costs incurred in  
6 defending the charge, including but not limited to costs and  
7 attorneys' fees. In any case where the commission does not  
8 issue a decision or final conclusion in which the commission  
9 concludes that a person has violated this chapter, the  
10 commission shall, upon the written request of the person  
11 charged, make a finding as to whether or not the charge was  
12 frivolous. The person charged may initiate an action in the  
13 circuit court for recovery of fees and costs incurred in  
14 commission proceedings within one year after the commission  
15 renders a decision that the charge was frivolous. The  
16 commission's decision shall be binding upon the court for  
17 purposes of a finding pursuant to section 607-14.5.

18 (f) The commission shall cause to be published yearly  
19 summaries of decisions, advisory opinions, and informal advisory  
20 opinions. The commission shall make sufficient deletions in the  
21 summaries to prevent disclosing the identity of persons involved





1 in the decisions or opinions where the identity of such persons  
2 is not otherwise a matter of public record under this chapter.

3 (g) The commission shall conduct random or spot audits of  
4 lobbyists, as may be necessary, to ensure compliance with this  
5 chapter."

6 SECTION 8. Section 97-7, Hawaii Revised Statutes, is  
7 amended by amending subsection (a) to read as follows:

8 "(a) Any person who:

- 9 (1) Wilfully fails to file any statement or report  
10 required by this chapter;  
11 (2) Wilfully files a statement or report containing false  
12 information or material omission of any fact;  
13 (3) Engages in activities prohibited by section 97-5; or  
14 (4) Fails to provide information required by section 97-2  
15 or 97-3;

16 shall be subject to an administrative fine imposed by the  
17 commission that shall not exceed [~~\$500~~] \$1,000 for each  
18 violation of this chapter. All fines collected under this  
19 section shall be deposited into the general fund."

20 SECTION 9. There is appropriated out of the general  
21 revenues of the State of Hawaii the sum of \$ or so  
22 much thereof as may be necessary for fiscal year 2008-2009 for



1 the state ethics commission to conduct random audits as may be  
2 necessary to ensure compliance with chapter 97, Hawaii Revised  
3 Statutes.

4 The sum appropriated shall be expended by the state ethics  
5 commission for the purposes of this Act.

6 SECTION 10. This Act does not affect rights and duties  
7 that matured, penalties that were incurred, and proceedings that  
8 were begun, before its effective date.

9 SECTION 11. Statutory material to be repealed is bracketed  
10 and stricken. New statutory material is underscored.

11 SECTION 12. This Act shall take effect upon its approval;  
12 provided that section 9 shall take effect on July 1, 2008.

13

INTRODUCED BY: 

JAN 23 2008



**Report Title:**

Lobbyist Regulation; Appropriation

**Description:**

Requires persons or entities that hire lobbyists to register. Requires lobbyists to retain records for four years. Adds additional requirements for lobbyists with regard to registration and reporting. Increases the fine for violations of the lobbying law. Adds additional powers and duties to the State Ethics Commission. Requires the State Ethics Commission to conduct random audits. Appropriates funds.

