

JAN 19 2007

A BILL FOR AN ACT

RELATING TO THE LEGISLATURE.

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

1 SECTION 1. The legislature finds that an intern,
2 generally, is a trainee or apprentice who seeks to gain
3 practical experience in an occupation or profession, under the
4 supervision of a more experienced person. In contrast to the
5 general concept of internships, the legislature believes that
6 providing certain individuals who are advanced in their careers
7 and who wish to intern at the legislature to learn about the
8 legislative process is often beneficial to both the legislature
9 and the private sector. A legislative internship provides an
10 avenue for the communication of often specialized or technical
11 information to the legislature and it fosters a better
12 understanding of the public policy making process. Accordingly,
13 during the legislative session, the legislature allows not only
14 inexperienced students, but also individuals with considerable
15 work experience in the private sector or with nonprofit
16 organizations, to serve as interns at during a legislative
17 session.



1 However, because the duties and responsibilities assigned
2 to legislative interns by individual legislators generally
3 relate to state or legislative issues, the legislature believes
4 that legislative interns are de facto state employees who should
5 be subject to the state ethics code.

6 Section 84-3, Hawaii Revised Statutes, defines an
7 "employee", subject to the state code of ethics, as "any
8 nominated, appointed, or elected officer or employee of the
9 State, including members of boards, commissions, and committees,
10 and employees under contract to the State or of the
11 constitutional convention, but excluding legislators, delegates
12 to the constitutional convention, justices and judges". The
13 legislature notes that the state ethics commission has stated in
14 an opinion that the definition of a state employee, as set forth
15 in the state ethics code, is intentionally broad. The state
16 ethics commission further stated that it believes that the
17 definition of "employee" includes legislative interns because
18 legislative interns are appointed to perform state duties.
19 Although some legislative interns may not be compensated by the
20 State, the state ethics commission noted that the definition of
21 "employee" under the state ethics code includes state board and
22 commission members who generally serve without compensation.



1 The state ethics commission further opined that section 84-1,
2 Hawaii Revised Statutes, mandates that the state ethics code be
3 "liberally construed", to effectuate the intent of the law.

4 The state ethics commission argued that it would make
5 little sense for a legislative intern to be allowed to perform
6 state duties, but not be subject to the state ethics code since
7 such an interpretation of the law would allow an intern to act
8 in situations where a conflict of interests exists or to
9 disclose confidential state information with impunity.

10 The legislature also finds that the intent that legislative
11 interns be subject to the state ethics code is also supported by
12 article XIV of the Constitution of the State of Hawaii. Article
13 XIV, in part, mandates that the state ethics code apply to all
14 state employees, including board and commission members.
15 Article XIV also calls for the "highest standards of ethical
16 conduct" on the part of those in state government. The
17 legislature concludes that both the Constitution of the State of
18 Hawaii and the state ethics code support the application of the
19 state code of ethics to legislative interns.

20 Under the state ethics code, legislative interns would be
21 prohibited from making recommendations or taking official action
22 regarding any company or organization they may work for, or with



1 respect to any situation that creates a conflict of interest.
2 In addition, legislative interns would be prohibited from
3 divulging confidential information, using state resources for
4 private business purposes, and using their positions as interns
5 to give themselves or others any unwarranted advantages or
6 preferential treatment.

7 The legislature believes that providing a clear definition
8 of legislative interns and certain other temporary staff of the
9 legislature and clearly stating that the state ethics code
10 applies to these persons is in the public interest and ensures
11 that the proceedings and operations of the legislature are held
12 to the highest ethical standards.

13 The purpose of this Act is to establish that employees of
14 business entities who are loaned to the legislature as
15 legislative interns or temporary staff are subject to the state
16 ethics code.

17 SECTION 2. Chapter 22, Hawaii Revised Statutes, is amended
18 by adding a new section to be appropriately designated and to
19 read as follows:

20 "§22- Certain legislative interns and temporary staff;
21 subject to state ethics code. (a) Any employee:



1 (1) Of a business entity that has business before the
2 legislature; and

3 (2) Who is loaned by the business entity to the
4 legislature to provide services to the legislature, a
5 legislator, or legislative committee during any
6 regular or special session as a legislative intern or
7 temporary staff of the legislature,

8 shall be subject to chapter 84.

9 (b) For the purposes of this section:

10 "Business entity" includes a sole proprietorship,
11 corporation, limited liability company, association,
12 partnership, joint stock company, joint venture, mutual fund,
13 trust, mutual benefit society, or other similar form of business
14 organization, whether organized for-profit or not-for-profit.

15 "Providing services to the legislature" means when an
16 employee of a business entity is loaned by the business entity
17 to the legislature, a legislator, or a legislative committee for
18 a period of time to assist, for consideration, the legislature,
19 a legislator, or a legislative committee in the performance of
20 the legislature's, legislator's, or a legislative committee's
21 duties, regardless of whether the consideration is provided by



1 the business entity, the legislature, a legislator, a
2 legislative committee, or any combination thereof.

3 (c) This section shall apply regardless of whether the
4 person is on paid or unpaid leave from the person's position at
5 the business entity."

6 SECTION 3. New statutory material is underscored.

7 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



By Request



Report Title:

Legislative Interns and Temporary Staff; Ethics Code

Description:

Provides that employees loaned by business entities to the legislature as interns or temporary staff are subject to the state code of ethics under chapter 84, HRS.

