

JAN 27 2010

S.B. NO. 2916

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# A BILL FOR AN ACT

RELATING TO ETHICS.

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

1           SECTION 1. The legislature finds that a properly  
2 functioning democracy is important to the health of our  
3 community. Our democratic governance system depends upon  
4 decision making processes free from undue influence by parties  
5 favoring narrow and special interests to the detriment of the  
6 general interests of the populous as a whole.

7           While all interests, public and private, may legitimately  
8 participate in the making of public policy, for those interests  
9 most able to wield influence, public accountability is necessary  
10 to limit lobbying practices harmful to our democracy. Public  
11 disclosure and transparency of lobbying activities of all types  
12 is critical to provide accountability, enhance public trust, and  
13 reduce the existence and perception of undue influence in  
14 government policy making.

15           The legislature finds that state law currently allows  
16 lobbying interests to hire, dine, and donate funds to policy  
17 makers during the legislative session without, in certain



1 situations, publicly disclosing these activities. Lobbyist and  
2 public official financial disclosure laws do not require  
3 lobbyists or public officials to report contracts for work  
4 between lobbyists and public officials if they are business  
5 professionals. Legislators who are attorneys, realtors,  
6 certified public accountants, insurance agents, contractors, and  
7 marketing and other consultants, and who engage in private  
8 business are not required to disclose their contracts with  
9 parties that lobby the legislature. Nor are lobbyists required  
10 to disclose these contractual relationships, even if the  
11 contractual relationship provides the sole source of income to  
12 the legislator.

13       The lobbyist disclosure law also does not provide for  
14 disclosure of other ways of influencing policy makers.  
15 Lobbyists can host lavish, reception-style dining events for  
16 legislators and not report attendees or costs. During  
17 legislative deliberations, lobbyists can also donate  
18 significantly to the political campaigns of legislators outside  
19 of reporting requirements. Moreover, the disclosure reports  
20 that are filed are not due until after the legislature adjourns;  
21 even if a legislator takes initiative to disclose financial  
22 relationships with lobbyists, the information is not available



1 to the public when it is most relevant. Finally, the moneys  
2 used to lobby by these various means may legally come from  
3 public taxes when government agencies seek to influence through  
4 hired lobbyists.

5 The purpose of this Act is to strengthen the democracy of  
6 our State by providing for transparency and fairness in the  
7 following ways:

- 8 (1) Require lobbyists and public officials to report their  
9 financial and contractual relationships and  
10 transaction amounts;
- 11 (2) Require lobbyists to disclose events attended by  
12 policy makers based on the average per person cost and  
13 including the cost of gifts;
- 14 (3) Require lobbyists and their clients to disclose all  
15 campaign donations made during the legislative  
16 session;
- 17 (4) Require lobbyists to file disclosure reports at the  
18 end of each of the months that the legislature is in  
19 session for the month or any fraction thereof;
- 20 (5) Require legislators to file financial disclosure  
21 reports within the first month of the legislative  
22 session; and



1 (6) Prohibit public funds, including general, specific,  
2 and trust funds, and grants or awards given to  
3 individuals or organizations, from being used to hire  
4 lobbyists.

5 SECTION 2. Chapter 97, Hawaii Revised Statutes, is amended  
6 by adding a new section to be appropriately designated and to  
7 read as follows:

8 "§97- Public funds; prohibition on retaining lobbyists

9 and gift giving. (a) No public funds shall be used in hiring

10 lobbyists to lobby any governmental agency. No administrative

11 agency may give to any state employee any personal gift that is

12 purchased with public funds.

13 (b) For purposes of this section:

14 "Public funds" includes general, specific, and trust funds,

15 and grants or awards given to individuals or organizations that

16 originate from public moneys."

17 SECTION 3. Section 84-3, Hawaii Revised Statutes, is  
18 amended by adding six new definitions to be appropriately  
19 inserted and to read as follows:

20 "Candidate" means the same as defined in section 11-191.

21 "Candidate's committee" means the same as defined in

22 section 11-191.



1 "Committee" means the same as defined in section 11-191.

2 "Contractual relationship" means the business relationship  
3 between two or more parties, under which the parties make  
4 promises to each other the breach of which the law provides a  
5 remedy, or the performance of which the law in some way  
6 recognizes as a duty.

7 "Contribution" includes a gift, subscription, forgiveness  
8 of a loan, advance, or deposit of money, or anything of value  
9 and includes a contract, promise, or agreement, whether or not  
10 enforceable, to make a contribution.

11 "Policy maker" means a state employee whose job  
12 responsibilities include high-level development or formulation  
13 of policy, rather than implementation of policy decisions. For  
14 purposes of this definition, a legislator or cabinet member of  
15 the executive branch is a policy maker."

16 SECTION 4. Section 84-17, Hawaii Revised Statutes, is  
17 amended as follows:

18 1. By amending subsections (b) and (c) to read:

19 "(b) The disclosure of financial interest required by this  
20 section shall be filed:

21 (1) Between January 1 and May 31 of each year; provided  
22 that the governor, lieutenant governor, and



1 legislators shall file their financial disclosure  
2 statements containing the information in subsection  
3 (f) no later than thirty days following the beginning  
4 of a legislative session;

5 (2) Within thirty days of one's election or appointment to  
6 a state position enumerated in subsection (c); or

7 (3) Within thirty days of separation from a state position  
8 if a prior financial disclosure statement for the  
9 position was not filed within the one hundred eighty  
10 days preceding the date of separation;

11 provided that candidates for state elective offices or the  
12 constitutional convention shall file the required statements no  
13 later than twenty days prior to the date of the primary election  
14 for state offices or the election of delegates to the  
15 constitutional convention.

16 (c) The following persons shall file annually with the  
17 state ethics commission a disclosure of financial interests:

18 (1) The governor, the lieutenant governor, the members of  
19 the legislature, and delegates to the constitutional  
20 convention; provided that delegates to the  
21 constitutional convention shall only be required to  
22 file initial disclosures; provided that the governor,



1           lieutenant governor, and legislators shall file their  
2           disclosure statements no later than thirty days  
3           following the beginning of a legislative session;

4           (2) The directors and their deputies, the division chiefs,  
5           the executive directors and the executive secretaries  
6           and their deputies, the purchasing agents and the  
7           fiscal officers, regardless of the titles by which the  
8           foregoing persons are designated, of every state  
9           agency and department;

10          (3) The permanent employees of the legislature and its  
11          service agencies, other than persons employed in  
12          clerical, secretarial, or similar positions;

13          (4) The administrative director of the State, and the  
14          assistants in the office of the governor and the  
15          lieutenant governor, other than persons employed in  
16          clerical, secretarial, or similar positions;

17          (5) The hearings officers of every state agency and  
18          department;

19          (6) The president, the vice presidents, assistant vice  
20          presidents, the chancellors, and the provosts of the  
21          University of Hawaii and its community colleges;



- 1           (7) The superintendent, the deputy superintendent, the  
2           assistant superintendents, the complex area  
3           superintendents, the state librarian, and the deputy  
4           state librarian of the department of education;
- 5           (8) The administrative director and the deputy director of  
6           the courts;
- 7           (9) The members of every state board or commission whose  
8           original terms of office are for periods exceeding one  
9           year and whose functions are not solely advisory;
- 10          (10) Candidates for state elective offices, including  
11          candidates for election to the constitutional  
12          convention, provided that candidates shall only be  
13          required to file initial disclosures; and
- 14          (11) The administrator and assistant administrator of the  
15          office of Hawaiian affairs."

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

17          "(f) Candidates for state elective offices, including  
18 candidates for election to the constitutional convention, shall  
19 only be required to disclose their own financial interests. The  
20 disclosures of financial interests of all other persons  
21 designated in subsection (c) shall state, in addition to the  
22 financial interests of the person disclosing, the financial





1 interests of the person's spouse and dependent children. All  
2 disclosures shall include:

3 (1) The source and amount of all income of \$1,000 or more  
4 received, for services rendered, by the person in the  
5 person's own name or by any other person for the  
6 person's use or benefit during the preceding calendar  
7 year and the nature of the services rendered; provided  
8 that information that may be privileged by law or  
9 individual items of compensation that constitute a  
10 portion of the gross income of the business or  
11 profession from which the person derives income need  
12 not be disclosed;

13 (2) The amount and identity of every ownership or  
14 beneficial interest held during the disclosure period  
15 in any business having a value of \$5,000 or more or  
16 equal to ten per cent of the ownership of the business  
17 and, if the interest was transferred during the  
18 disclosure period, the date of the transfer; provided  
19 that an interest in the form of an account in a  
20 federal or state regulated financial institution, an  
21 interest in the form of a policy in a mutual insurance  
22 company, or individual items in a mutual fund or a



1 blind trust, if the mutual fund or blind trust has  
2 been disclosed pursuant to this paragraph, need not be  
3 disclosed;

4 (3) Every officership, directorship, trusteeship, or other  
5 fiduciary relationship held in a business during the  
6 disclosure period, the term of office and the annual  
7 compensation;

8 (4) The name of each creditor to whom the value of \$3,000  
9 or more was owed during the disclosure period and the  
10 original amount and amount outstanding; provided that  
11 debts arising out of retail installment transactions  
12 for the purchase of consumer goods need not be  
13 disclosed;

14 (5) The street address and, if available, the tax map key  
15 number, and the value of any real property in which  
16 the person holds an interest whose value is \$10,000 or  
17 more, and, if the interest was transferred or obtained  
18 during the disclosure period, a statement of the  
19 amount and nature of the consideration received or  
20 paid in exchange for such interest, and the name of  
21 the person furnishing or receiving the consideration;  
22 provided that disclosure shall not be required of the



1 street address and tax map key number of the person's  
2 residence;

3 (6) The names of clients personally represented before  
4 state agencies, except in ministerial matters, for a  
5 fee or compensation during the disclosure period and  
6 the names of the state agencies involved; [and]

7 (7) The amount and identity of every creditor interest in  
8 an insolvent business held during the disclosure  
9 period having a value of \$5,000 or more[-]; and

10 (8) All contractual relationships in existence during the  
11 disclosure period between the person and a lobbyist or  
12 a person who has hired a lobbyist, the names of the  
13 parties to the contract, a description of the  
14 contract, and monetary amounts of \$1,000 or more paid  
15 by one party to another party under the contract  
16 during the disclosure period."

17 SECTION 5. Chapter 97, Hawaii Revised Statutes, is amended  
18 by amending its title to read as follows:

19 "CHAPTER 97

20 **LOBBYISTS; LOBBYING ACTIVITIES**"

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



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

2       ~~[(1)]~~ "Administrative action" means the proposal, drafting,  
3                   consideration, amendment, enactment, or defeat by any  
4                   administrative agency of any rule, regulation, or  
5                   other action governed by section 91-3.

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

10       "Candidate" means the same as defined in section 11-191.

11       "Candidate's committee" means the same as defined in  
12 section 11-191.

13       "Committee" means the same as defined in section 11-191.

14       "Contractual relationship" means the business relationship  
15 between two or more parties, under which the parties make  
16 promises to each other, and the breach of which the law provides  
17 a remedy or the performance of which the law in some way  
18 recognizes as a duty.

19       ~~[(3)]~~ "Contribution" includes a gift, subscription,  
20                   forgiveness of a loan, advance, or deposit of money,  
21                   or anything of value and includes a contract, promise,



1 or agreement, whether or not enforceable, to make a  
2 contribution.

3 ~~[-4-]~~ "Expenditure" includes a payment, distribution,  
4 forgiveness of a loan, advance, deposit, or gift of  
5 money, or anything of value and includes a contract,  
6 promise, or agreement, whether or not enforceable, to  
7 make an expenditure. "Expenditure" also includes  
8 compensation or other consideration paid to a lobbyist  
9 for the performance of lobbying services.

10 "Expenditure" excludes the expenses of preparing  
11 written testimony and exhibits for a hearing before  
12 the legislature or an administrative agency.

13 ~~[-5-]~~ "Legislative action" means the sponsorship, drafting,  
14 introduction, consideration, modification, enactment,  
15 or defeat of any bill, resolution, amendment, report,  
16 nomination, appointment, or any other matter pending  
17 or proposed in the legislature.

18 ~~[-6-]~~ ~~"Lobbyist" means any individual who for pay or other~~  
19 ~~consideration engages in lobbying in excess of five~~  
20 ~~hours in any month of any reporting period described~~  
21 ~~in section 97-3 or spends more than \$750 lobbying~~  
22 ~~during any reporting period described in section 97-3.~~



1       ~~(7)~~] "Lobbying" means communicating directly or through an  
2           agent, or soliciting others to communicate, with any  
3           official in the legislative or executive branch, for  
4           the purpose of attempting to influence legislative or  
5           administrative action or a ballot issue.

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

11       "Person" means a corporation, individual, union,  
12       association, firm, sole proprietorship, partnership,  
13       committee, club, or any other organization or a  
14       representative of a group of persons acting in  
15       concert.

16       "Policy maker" means a state employee whose job  
17       responsibilities include high-level development or formulation  
18       of policy, rather than implementation of policy decisions. For  
19       purposes of this definition, a legislator or cabinet member of  
20       the executive branch is a policy maker."

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



1           "§97-3 Contributions, contractual relationships, and  
2 expenditures; statement. (a) The following persons shall file  
3 a statement of contributions, contractual relationships, and  
4 expenditures with the state ethics commission on [~~March 31,~~  
5 ~~May 31, and January 31~~] the dates of each year[+] set forth in  
6 subsection (b):

7           (1) Each lobbyist.

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

17           (3) Each person who employs or contracts for the services  
18 of one or more lobbyists, whether independently or  
19 jointly with other persons. If the person is an  
20 industry, trade, or professional association, only the  
21 association is the employer of the lobbyist.



1           (b) ~~[The March 31 report shall cover the period from~~  
2 ~~January 1 through the last day of February. The May 31 report~~  
3 ~~shall cover the period from March 1 through April 30. The~~  
4 ~~January 31 report shall cover the period from May 1 through~~  
5 ~~December 31 of the previous year.]~~ The persons described in  
6 subsection (a) shall file monthly reports for each month during  
7 the period from January through May of each year, and for any  
8 other month during the year in which the legislature is in  
9 session. Each monthly report shall be filed within fifteen  
10 calendar days following the end of the month for which a report  
11 is required. Additionally, the persons described in subsection  
12 (a) shall file a report on January 15 of each year for the  
13 period covering June 1 through December 31.

14           (c) The statement shall contain the following information:

15           (1) The name and address of each person with respect to  
16           whom expenditures for the purpose of lobbying in the  
17           total sum of \$25 or more per day was made by the  
18           person filing the statement during the statement  
19           period and the amount or value of such expenditure;

20           (2) The name and address of each person with respect to  
21           whom expenditures for the purpose of lobbying in the  
22           aggregate of \$150 or more was made by the person





1 filing the statement during the statement period and  
2 the amount or value of such expenditures;

3 (3) The total sum or value of all expenditures for the  
4 purpose of lobbying made by the person filing the  
5 statement during the statement period in excess of  
6 \$750 during the statement period;

7 (4) The name and address of each person making  
8 contributions to the person filing the statement for  
9 the purpose of lobbying in the total sum of \$25 or  
10 more during the statement period and the amount or  
11 value of such contributions; [and]

12 (5) The subject area of the legislative and administrative  
13 action which was supported or opposed by the person  
14 filing the statement during the statement period[-];

15 (6) All campaign contributions made by the person to a  
16 candidate, candidate's committee, or elected state  
17 official during the statement period;

18 (7) All contractual relationships in existence during the  
19 statement period between the person and any  
20 legislator, the name of the parties to the contract, a  
21 description of the contract, and the amount of any



1           money exchanged pursuant to the contract during the  
 2           statement period; and  
 3        (8) For each event attended by policy makers that costs an  
 4           average of \$25 or more per person or a total of \$500  
 5           including the cost of gifts, a statement describing  
 6           the event, including the date of the event, the cost  
 7           of the event, and the names of the policy makers who  
 8           attended the event.

9           ~~[(d) The receipt or expenditure of any money for the~~  
 10        ~~purpose of influencing the election or defeat of any candidate~~  
 11        ~~for an elective office or for the passage or defeat of any~~  
 12        ~~proposed measure at any special or general election is excluded~~  
 13        ~~from the reporting requirement of this section.]"~~

14           SECTION 8. Statutory material to be repealed is bracketed  
 15        and stricken. New statutory material is underscored.

16           SECTION 9. This Act shall take effect upon its approval.

17

INTRODUCED BY: *[Signature]*  
*[Signature]*  
*Carol Fullinwider*



**Report Title:**

Ethics; Disclosures; Lobbyists; Legislators; State Employees

**Description:**

Requires lobbyists and their clients to make monthly disclosures during any month the legislature is in session, and a report for June 1 through December 31. Adds required disclosures regarding lobbying events, contractual relationships with legislators, and campaign contributions. Requires the governor, lieutenant governor, and legislators to file their financial disclosures within 30 days of the beginning of the legislative session. Requires certain state employees to disclose contractual relationships with lobbyists and their clients. Prohibits public funds from being used to hire lobbyists and to purchase gifts for state employees.

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

