

JAN 25 2012

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 populace 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 are critical to provide accountability, enhance public trust,
13 and reduce the existence and perception of undue influence in
14 government policy making.

15 The legislature finds that lobbyist and public official
16 financial disclosure laws do not require lobbyists or public
17 officials to report contracts for work between lobbyists and
18 public officials if they are business professionals.



1 Legislators who are attorneys, realtors, certified public
2 accountants, insurance agents, contractors, and marketing and
3 other consultants, and who engage in private business are not
4 required to disclose their contracts with parties that lobby the
5 legislature. Lobbyists are also not required to disclose these
6 contractual relationships, even if the contractual relationship
7 provides a significant source of income to the legislator.

8 The lobbyist disclosure law also does not provide for the
9 disclosure of other ways of influencing policy makers. During
10 legislative deliberations, lobbyists can donate significantly to
11 the political campaigns of legislators, and the disclosure
12 reports that are required to be filed are not due until after
13 the legislature adjourns. Therefore, even if a legislator takes
14 initiative to disclose financial relationships with lobbyists,
15 the information is not available to the public when it is most
16 relevant.

17 The purpose of this Act is to strengthen the democracy of
18 our State by providing for transparency and fairness in the
19 following ways:

20 (1) Requiring lobbyists and public officials to report
21 their financial and contractual relationships and
22 transaction amounts;



- 1 (2) Requiring lobbyists to disclose certain events
2 attended by legislators;
- 3 (3) Requiring lobbyists and their clients to disclose all
4 campaign donations made during the legislative
5 session;
- 6 (4) Requiring lobbyists to file disclosure reports at the
7 end of each of the months that the legislature is in
8 session;
- 9 (5) Requiring legislators, the governor, and the
10 lieutenant governor to file financial disclosure
11 reports by January 31 after the beginning of each
12 regular legislative session;
- 13 (6) Amending the definition of "administrative action" to
14 include granting or denying an application for a
15 business- or development-related permit, license, or
16 approval and the procurement of goods and services
17 through contracts covered by the procurement code; and
- 18 (7) Requiring the state ethics commission to receive
19 electronic statements in lieu of paper documents
20 required to be filed pursuant to chapter 97, Hawaii
21 Revised Statutes.



1 SECTION 2. Section 84-3, Hawaii Revised Statutes, is
2 amended by adding five new definitions to be appropriately
3 inserted and to read as follows:

4 "Candidate" means an individual who seeks nomination for
5 election, or seeks election to office. An individual remains a
6 candidate until the individual's candidate committee terminates
7 registration with the commission. An individual is a candidate
8 if the individual does any of the following:

- 9 (1) Files nomination papers for an office for the
10 individual with the county clerk's office or with the
11 chief election officer's office, whichever is
12 applicable;
- 13 (2) Receives contributions, makes expenditures, or incurs
14 financial obligations of more than \$100 to bring about
15 the individual's nomination for election, or to bring
16 about the individual's election to office;
- 17 (3) Gives consent for any other person to receive
18 contributions, make expenditures, or incur financial
19 obligations to aid the individual's nomination for
20 election, or the individual's election, to office; or
- 21 (4) Is certified to be a candidate by the chief election
22 officer or county clerk.



1 "Candidate committee" means an organization, association,
2 or individual that receives campaign funds, makes expenditures,
3 or incurs financial obligations on behalf of a candidate with
4 the candidate's authorization.

5 "Committee" means:

6 (1) Any organization, association, or individual that
7 accepts or makes a contribution or makes an
8 expenditure for or against any:

9 (A) Candidate;

10 (B) Individual who files for nomination at a later
11 date and becomes a candidate;

12 (C) Party; or

13 (D) Question or issue appearing on the ballot at the
14 next applicable election with or without the
15 authorization of the candidate, individual, or
16 party; or

17 (2) Any organization, association, or individual that
18 raises or holds money or anything of value for a
19 political purpose, with or without the consent or
20 knowledge of any:

21 (A) Candidate;



1 (B) Individual who files for nomination at a later
2 date and becomes a candidate; or
3 (C) Party; and
4 subsequently contributes money or anything of value
5 to, or makes expenditures on behalf of, the candidate,
6 individual, or party.

7 Notwithstanding any of the foregoing, the term
8 "committee" shall not include any individual making a
9 contribution or expenditure of the individual's own
10 funds or anything of value that the individual
11 originally acquired for the individual's own use and
12 not for the purpose of evading any provision of this
13 chapter, or any organization that raises or expends
14 funds for the sole purpose of the production and
15 dissemination of informational and educational
16 advertising.

17 "Contractual relationship" means the business relationship
18 between two or more parties, under which the parties make
19 promises to each other, the breach of which the law provides a
20 remedy, or the performance of which the law recognizes as a
21 duty.



1 "Contribution" includes a gift, subscription, forgiveness
2 of a loan, advance, or deposit of money, or anything of value
3 and includes a contract, promise, or agreement, whether or not
4 enforceable, to make a contribution."

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

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

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

10 (1) Between January 1 and May 31 of each year; provided
11 that the governor, lieutenant governor, and members of
12 the legislature shall file their financial disclosure
13 statements containing the information in subsection
14 (f) no later than January 31 after the beginning of
15 each regular legislative session;

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

18 (3) Within thirty days of separation from a state position
19 if a prior financial disclosure statement for the
20 position was not filed within the one hundred eighty
21 days preceding the date of separation;



1 provided that candidates for state elective offices or the
2 constitutional convention shall file the required statements no
3 later than twenty days prior to the date of the primary election
4 for state offices or the election of delegates to the
5 constitutional convention.

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

8 (1) The governor, the lieutenant governor, the members of
9 the legislature, and delegates to the constitutional
10 convention; provided that delegates to the
11 constitutional convention shall only be required to
12 file initial disclosures; provided further that the
13 governor, lieutenant governor, and members of the
14 legislature shall file their financial disclosure
15 statements by January 31 after the beginning of each
16 regular legislative session;

17 (2) The directors and their deputies, the division chiefs,
18 the executive directors and the executive secretaries
19 and their deputies, the purchasing agents and the
20 fiscal officers, regardless of the titles by which the
21 foregoing persons are designated, of every state
22 agency and department;



- 1 (3) The permanent employees of the legislature and its
2 service agencies, other than persons employed in
3 clerical, secretarial, or similar positions;
- 4 (4) The administrative director of the State, and the
5 assistants in the office of the governor and the
6 lieutenant governor, other than persons employed in
7 clerical, secretarial, or similar positions;
- 8 (5) The hearings officers of every state agency and
9 department;
- 10 (6) The president, the vice presidents, assistant vice
11 presidents, the chancellors, and the provosts of the
12 University of Hawaii and its community colleges;
- 13 (7) The superintendent, the deputy superintendent, the
14 assistant superintendents, the complex area
15 superintendents, the state librarian, and the deputy
16 state librarian of the department of education;
- 17 (8) The administrative director and the deputy director of
18 the courts;
- 19 (9) The members of every state board or commission whose
20 original terms of office are for periods exceeding one
21 year and whose functions are not solely advisory;



1 (10) Candidates for state elective offices, including
2 candidates for election to the constitutional
3 convention, provided that candidates shall only be
4 required to file initial disclosures; and

5 (11) The administrator and assistant administrator of the
6 office of Hawaiian affairs."

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

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

16 (1) The source and amount of all income of \$1,000 or more
17 received, for services rendered, by the person in the
18 person's own name or by any other person for the
19 person's use or benefit during the preceding calendar
20 year and the nature of the services rendered; provided
21 that information that may be privileged by law or
22 individual items of compensation that constitute a



1 portion of the gross income of the business or
2 profession from which the person derives income need
3 not be disclosed;

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

17 (3) Every officership, directorship, trusteeship, or other
18 fiduciary relationship held in a business during the
19 disclosure period, the term of office and the annual
20 compensation;

21 (4) The name of each creditor to whom the value of \$3,000
22 or more was owed during the disclosure period and the



1 original amount and amount outstanding; provided that
2 debts arising out of retail installment transactions
3 for the purchase of consumer goods need not be
4 disclosed;

5 (5) The street address and, if available, the tax map key
6 number, and the value of any real property in which
7 the person holds an interest whose value is \$10,000 or
8 more, and, if the interest was transferred or obtained
9 during the disclosure period, a statement of the
10 amount and nature of the consideration received or
11 paid in exchange for such interest, and the name of
12 the person furnishing or receiving the consideration;
13 provided that disclosure shall not be required of the
14 street address and tax map key number of the person's
15 residence;

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

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



1 permit, license, or approval as required by state law;

2 or

3 (3) Procurement of goods and services through contracts
4 covered by the Hawaii public procurement code.

5 ~~[-2-]~~ "Administrative agency" means a commission, board,
6 agency, or other body, or official in the state government that
7 is not a part of the legislative or judicial branch.

8 "Candidate" means an individual who seeks nomination for
9 election, or seeks election, to office. An individual remains a
10 candidate until the individual's candidate committee terminates
11 registration with the commission. An individual is a candidate
12 if the individual does any of the following:

13 (1) Files nomination papers for an office for the
14 individual with the county clerk's office or with the
15 chief election officer's office, whichever is
16 applicable;

17 (2) Receives contributions, makes expenditures, or incurs
18 financial obligations of more than \$100 to bring about
19 the individual's nomination for election, or to bring
20 about the individual's election to office;

21 (3) Gives consent for any other person to receive
22 contributions, make expenditures, or incur financial



1 obligations to aid the individual's nomination for
2 election, or the individual's election, to office; or
3 (4) Is certified to be a candidate by the chief election
4 officer or county clerk.

5 "Candidate committee" means an organization, association,
6 or individual that receives campaign funds, makes expenditures,
7 or incurs financial obligations on behalf of a candidate with
8 the candidate's authorization.

9 "Committee" means:

- 10 (1) Any organization, association, or individual that
11 accepts or makes a contribution or makes an
12 expenditure for or against any:
- 13 (A) Candidate;
 - 14 (B) Individual who files for nomination at a later
15 date and becomes a candidate;
 - 16 (C) Party; or
 - 17 (D) Question or issue appearing on the ballot at the
18 next applicable election; with or without the
19 authorization of the candidate, individual, or
20 party; or

21 (2) Any organization, association, or individual that
22 raises or holds money or anything of value for a



1 political purpose, with or without the consent or
2 knowledge of any:

3 (A) Candidate;

4 (B) Individual who files for nomination at a later
5 date and becomes a candidate; or

6 (C) Party; and

7 subsequently contributes money or anything of value
8 to, or makes expenditures on behalf of, the candidate,
9 individual, or party.

10 Notwithstanding any of the foregoing, the term
11 "committee" shall not include any individual making a
12 contribution or expenditure of the individual's own
13 funds or anything of value that the individual
14 originally acquired for the individual's own use and
15 not for the purpose of evading any provision of this
16 chapter; or any organization that raises or expends
17 funds for the sole purpose of the production and
18 dissemination of informational and educational
19 advertising.

20 "Contractual relationship" means the business relationship
21 between two or more parties, under which the parties make
22 promises to each other, the breach of which the law provides a



1 remedy, or the performance of which the law recognizes as a
2 duty.

3 ~~[(3)]~~ "Contribution" includes a gift, subscription,
4 forgiveness of a loan, advance, or deposit of money, or anything
5 of value and includes a contract, promise, or agreement, whether
6 or not enforceable, to make a contribution.

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

13 "Expenditure" excludes the expenses of preparing written
14 testimony and exhibits for a hearing before the legislature or
15 an administrative agency.

16 ~~[(5)]~~ "Legislative action" means the sponsorship, drafting,
17 introduction, consideration, modification, enactment, or defeat
18 of any bill, resolution, amendment, report, nomination,
19 appointment, or any other matter pending or proposed in the
20 legislature.

21 ~~[(6)]~~ "Lobbyist" ~~means any individual who for pay or other~~
22 ~~consideration engages in lobbying in excess of five~~



1 ~~hours in any month of any reporting period described~~
2 ~~in section 97-3 or spends more than \$750 lobbying~~
3 ~~during any reporting period described in section 97-3.~~

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

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

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

18 SECTION 6. Section 97-3, Hawaii Revised Statutes, is
19 amended to read as follows:

20 **"§97-3 Contributions and expenditures; statement. (a)**
21 The following persons shall file a statement of contributions,
22 contractual relationships, and expenditures with the state



1 ethics commission [~~on March 31, May 31, and January 31 of each~~
2 ~~year+]~~ by the dates set forth in subsection (b):

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

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

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

18 (b) [~~The March 31 report shall cover the period from~~
19 ~~January 1 through the last day of February. The May 31 report~~
20 ~~shall cover the period from March 1 through April 30. The~~
21 ~~January 31 report shall cover the period from May 1 through~~
22 ~~December 31 of the previous year.] The persons described in~~



1 subsection (a) shall file a report for each month during the
2 period from January through May of each year, and for any other
3 month during the year in which the legislature is in session.
4 Each monthly report shall be filed within fifteen calendar days
5 following the end of the month for which a report is required.
6 Additionally, the persons described in subsection (a) shall file
7 a report on January 15 of each year for the period covering
8 June 1 through December 31 of the preceding year.

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

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

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

20 (3) The total sum or value of all expenditures for the
21 purpose of lobbying made by the person filing the



- 1 statement during the statement period in excess of
2 \$750 during the statement period;
- 3 (4) The name and address of each person making
4 contributions to the person filing the statement for
5 the purpose of lobbying in the total sum of \$25 or
6 more during the statement period and the amount or
7 value of such contributions; [~~and~~]
- 8 (5) The subject area of the legislative and administrative
9 action which was supported or opposed by the person
10 filing the statement during the statement period[-];
- 11 (6) All campaign contributions made by the person to a
12 candidate, candidate's committee, or elected state
13 official during the statement period;
- 14 (7) All contractual relationships in existence during the
15 statement period between the person and any
16 legislator, the name of the parties to the contract, a
17 description of the contract, and the amount of any
18 money exchanged pursuant to the contract during the
19 statement period; and
- 20 (8) For each event attended by members of the legislature
21 that costs an average of \$25 or more per person or a
22 total of \$500 including the cost of gifts, a statement



1 describing the event, including the date of the event,
2 the cost of the event, and the names of members of the
3 legislature who attended the event.

4 ~~[(d) The receipt or expenditure of any money for the~~
5 ~~purpose of influencing the election or defeat of any candidate~~
6 ~~for an elective office or for the passage or defeat of any~~
7 ~~proposed measure at any special or general election is excluded~~
8 ~~from the reporting requirement of this section.]"~~

9 SECTION 7. Section 97-4, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§97-4 Manner of filing; electronic filing; public**
12 **records.** (a) Beginning December 1, 2012, the state ethics
13 commission shall accept from any person who submits a statement
14 required by this chapter an electronic document in lieu of a
15 paper document; provided that the statement shall be submitted
16 in a form approved by the state ethics commission through the
17 adoption of rules pursuant to chapter 91.

18 (b) The commission may adopt rules pursuant to chapter 91
19 to effectuate the purposes of this section.

20 (c) All statements required by this chapter to be filed
21 with the state ethics commission:

22 (1) Shall be deemed properly filed ~~[when]~~:



1 (A) When delivered or deposited in an established
2 post office within the prescribed time, duly
3 stamped, registered, or certified, and directed
4 to the state ethics commission; provided,
5 however, in the event it is not received, a
6 duplicate of the statement shall be promptly
7 filed upon notice by the state ethics commission
8 of its nonreceipt; [~~and~~] or

9 (B) In the case of an electronic record, when it is
10 received by the state ethics commission; and

11 (2) Shall be preserved by the state ethics commission for
12 a period of four years from the date of filing; and
13 shall constitute part of the public records of the
14 state ethics commission.

15 (d) Chapter 489E shall apply to all electronic documents
16 submitted pursuant to this section."

17 SECTION 8. No later than September 1, 2012, the state
18 ethics commission shall create written guidelines specifying the
19 form of electronic documents to be submitted to the state ethics
20 commission. These guidelines shall remain in effect until
21 superseded by rules adopted by the state ethics commission to
22 establish the form in which electronic statements filed pursuant



1 to chapter 97, Hawaii Revised Statutes, shall be submitted to
2 the commission; provided that the rules shall be adopted no
3 later than July 1, 2013.

4 SECTION 9. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 10. This Act shall take effect upon its approval.

7

INTRODUCED BY: *[Signature]*



S.B. NO. 2954

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 by January 31 after the beginning of the regular legislative session. Requires certain state employees to disclose contractual relationships with lobbyists and their clients. Amends the definition of "administrative action" to include granting or denying an application for a business- or development-related permit, license, or approval and the procurement of goods and services through contracts covered by the procurement code. Requires the state ethics commission to accept electronically filed documents.

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

