

JAN 18 2013

A BILL FOR AN ACT

RELATING TO ADVISORY OPINIONS BY THE STATE ETHICS COMMISSION.

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

1 SECTION 1. Section 84-31, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) The ethics commission shall have the following powers
4 and duties:

- 5 (1) It shall prescribe forms for the disclosures required
6 by article XIV of the Hawaii constitution and section
7 84-17 and the gifts disclosure statements required by
8 section 84-11.5 and shall establish orderly procedures
9 for implementing the requirements of those provisions;
- 10 (2) It shall render advisory opinions upon the request of
11 any legislator, employee, or delegate to the
12 constitutional convention, or person formerly holding
13 such office or employment as to whether the facts and
14 circumstances of a particular case constitute or will
15 constitute a violation of the code of ethics[-] within
16 thirty days after the request is filed with the
17 commission, which thirty-day period may be extended
18 for an additional thirty days for good cause. If no



1 advisory opinion is rendered within [~~thirty days after~~
2 ~~the request is filed with the commission,~~] the
3 required time period, it shall be deemed that an
4 advisory opinion was rendered and that the facts and
5 circumstances of that particular case do not
6 constitute a violation of the code of ethics. The
7 opinion rendered or deemed rendered, until amended or
8 revoked, shall be binding on the commission in any
9 subsequent charges concerning the legislator,
10 employee, or delegate to the constitutional
11 convention, or person formerly holding such office or
12 employment, who sought the opinion and acted in
13 reliance on it in good faith, unless material facts
14 were omitted or misstated by such persons in the
15 request for an advisory opinion;

16 (3) It shall initiate, receive, and consider charges
17 concerning alleged violation of this chapter, initiate
18 or make investigation, and hold hearings;

19 (4) It may subpoena witnesses, administer oaths, and take
20 testimony relating to matters before the commission
21 and require the production for examination of any
22 books or papers relative to any matter under



1 investigation or in question before the commission.

2 Before the commission shall exercise any of the powers
3 authorized in this section with respect to any
4 investigation or hearings it shall by formal
5 resolution, supported by a vote of three or more
6 members of the commission, define the nature and scope
7 of its inquiry;

8 (5) It may, from time to time adopt, amend, and repeal any
9 rules, not inconsistent with this chapter, that in the
10 judgment of the commission seem appropriate for the
11 carrying out of this chapter and for the efficient
12 administration thereof, including every matter or
13 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 (6) It shall have jurisdiction for purposes of
19 investigation and taking appropriate action on alleged
20 violations of this chapter in all proceedings
21 commenced within six years of an alleged violation of
22 this chapter by a legislator or employee or former



1 legislator or employee. A proceeding shall be deemed
 2 commenced by the filing of a charge with the
 3 commission or by the signing of a charge by three or
 4 more members of the commission. Nothing herein shall
 5 bar proceedings against a person who by fraud or other
 6 device, prevents discovery of a violation of this
 7 chapter;

8 (7) It shall distribute its publications without cost to
 9 the public and shall initiate and maintain programs
 10 with the purpose of educating the citizenry and all
 11 legislators, delegates to the constitutional
 12 convention, and employees on matters of ethics in
 13 government employment; and

14 (8) It shall administer any code of ethics adopted by a
 15 state constitutional convention, subject to the
 16 procedural requirements of this part and any rules
 17 adopted thereunder."

18 SECTION 2. Statutory material to be repealed is bracketed
 19 and stricken. New statutory material is underscored.

20 SECTION 3. This Act shall take effect upon its approval.

21
 INTRODUCED BY: *Sen. Mercedes A.*



S.B. NO. 436

Report Title:

State Ethics Commission Package; Advisory Opinions

Description:

Authorizes the state ethics commission, for good cause, to extend the period within which an advisory opinion must be rendered.

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