

JAN 18 2013

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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 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       (8) All contractual relationships in existence during the  
 2       disclosure period between the person and a lobbyist or  
 3       a person who has hired a lobbyist, the names of the  
 4       parties to the contract, a description of the  
 5       contract, and monetary amounts of \$1,000 or more paid  
 6       by one party to another party under the contract  
 7       during the disclosure period."

8       SECTION 4. Chapter 97, Hawaii Revised Statutes, is amended  
 9 by amending its title to read as follows:

10                                   **"CHAPTER 97**

11                                   **LOBBYISTS; LOBBYING ACTIVITIES"**

12       SECTION 5. Section 97-1, Hawaii Revised Statutes, is  
 13 amended to read as follows:

14       **"§97-1 Definitions.** When used in this chapter:

15       ~~[-(1)]~~ "Administrative action" means the ~~[proposal,]~~:

16       (1) Proposal, drafting, consideration, amendment,  
 17       enactment, or defeat by any administrative agency of  
 18       any rule, regulation, or other action governed by  
 19       section 91-3~~[-]~~;

20       (2) Granting or denying by an administrative agency of an  
 21       application for a business- or development-related



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, 2013, 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, 2013, 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, 2014.

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:

*[Handwritten signatures]*  
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**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.*

