THE SENATE
TWENTY-NINTH LEGISLATURE, 2017
STATE OF HAWAII

S.B. NO. 853

JAN 25 2017

A BILL FOR AN ACT

RELATING TO LOBBYISTS.

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

SECTION 1. The legislature finds that Hawaii's lobbyist registration law is both under- and over-inclusive, such that amending the definitions of "lobbying" and "lobbyist" will provide additional transparency to the public while relieving some individuals, particularly certain representatives of charitable, non-profit organizations, from having to register as lobbyists. Similarly, the legislature finds that several provisions of the lobbyists law can be amended to avoid unnecessary paperwork and confusion. Among other things, the legislature finds that the employer of a lobbyist should have the authority to terminate that lobbyist's registration if the lobbyist does not do so on their own.

Accordingly, the purpose of this Act is to provide additional clarity and consistency in the administration and enforcement of Hawaii's lobbying laws.

SECTION 2. Section 97-1, Hawaii Revised Statutes, is amended to read as follows:

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

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

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

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

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

S.B. NO. 853

[~~"Expenditure" excludes the expenses of preparing written testimony and exhibits for a hearing before the legislature or an administrative agency.~~]

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

[~~(6)~~] "Lobbyist" means any individual who [~~for~~]:

(1) Receives or expects to receive, either by employment or contract, more than $1,000 in monetary or in-kind compensation in any calendar year for engaging in lobbying, either personally or through the lobbyist's agents; or

(2) For pay or other consideration [~~engages~~]:

(A) Engages in lobbying in excess of five hours in any month of any reporting period described in section 97-3 [~~or spends~~];

(B) Engages in lobbying in excess of ten hours during any calendar year;

(C) Engages in lobbying on three or more bills, resolutions, or both, during any legislative session; or

(D) Spends more than [~~$750~~] $1,000 of the person's or any other person's money lobbying during any reporting period described in section 97-3.

[~~(7)~~] "Lobbying" means communicating directly or through an agent, or soliciting others to communicate, with any official in the legislative or executive branch, for the purpose of attempting to influence legislative or administrative action or a ballot issue. Lobbying shall not include the preparation and submission of a grant application pursuant to chapter 42F by a representative of a nonprofit organization, but does include any communication with any official in the legislative or executive branch for the purpose of attempting to influence action on any existing or future grant application.

[~~(8)~~] "Person" means a corporation, individual, union, association, firm, sole proprietorship, partnership, committee, club, or any other organization or a

representative of a group of persons acting in concert."

SECTION 3. Section 97-2, Hawaii Revised Statutes, is amended by amending subsections (d) and (e) to read as follows:

"(d) A lobbyist shall file a notice of termination within ten days after the lobbyist ceases the activity which required the lobbyist's registration. If the lobbyist fails to file a notice of termination, the person who employed or contracted for the services of the lobbyist may file the notice. The lobbyist and the [~~employer~~] person who employed or contracted for the services of the lobbyist shall remain subject, however, to the requirements of this chapter [~~97~~] for the period during which the registration was effective.

(e) This chapter shall not apply to:

(1) Any individual who represents oneself and not any other person before the legislature or administrative agency; provided that [~~such~~] the individual [~~must~~] shall nonetheless file a statement of expenditures if the individual meets any of the provisions of section 97-3(a);

(2) Any federal, state, or county official or employee acting in the official's or employee's official capacity, unless the federal, state or county official, or employee contracts for the services of a lobbyist;

(3) Any elected public official acting in the public official's official capacity, unless the public official contracts for the services of a lobbyist;

(4) Any newspaper or other regularly published periodical or radio or television station (including any individual who owns, publishes, or is employed by a newspaper or periodical or radio or television station) while publishing in the regular course of business news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge the passage or defeat of legislative or administrative action;

(5) Any attorney who advises the attorney's clients on the construction or effect of proposed legislative or administrative action; provided that such attorney must nonetheless register if the attorney meets [~~any~~

~~of the provisions of section 97-1(6);~~] the definition of "lobbyist" as defined in section 97-1; and

(6) Any person who possesses special skills and knowledge relevant to certain areas of legislation, whose skills and knowledge may be helpful to the legislative and executive branches of state government, and who makes an occasional appearance at the request of the legislature or an administrative agency, or the lobbyist even though receiving reimbursement or other payment from the legislature or administrative agency or the lobbyist for the appearance."

SECTION 4. Section 97-3, Hawaii Revised Statutes, is amended by amending subsections (a), (b), and (c) to read as follows:

"(a) The following persons shall file a statement of expenditures with the state ethics commission on March 31, May 31, and January 31 of each year and within thirty days after adjournment sine die of any special session of the legislature:

(1) Each lobbyist;

(2) Each person who spends [~~$750~~] $1,000 or more of the person's or any other person's money in any [~~six-month~~

~~period~~] reporting period described in this section for the purpose of attempting to influence legislative or administrative action or a ballot issue by communicating or urging others to communicate with public officials; provided that any amounts expended for travel costs, including incidental meals and lodging, shall not be included in the tallying of the [~~$750;~~] $1,000 and need not be reported; and provided further that any amounts expended by a nonprofit organization to prepare and submit a grant application pursuant to chapter 42F shall likewise not be included in the tallying of the $1,000 and need not be reported; and

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

(b) The March 31 report shall cover the period from January 1 through the last day of February. The May 31 report shall cover the period from March 1 through April 30. The

January 31 report shall cover the period from May 1 through December 31 of the previous year. The report to be filed within thirty days after adjournment sine die of a special session of the legislature shall [~~cover~~]:

(1) Cover the period from May 1 through adjournment sine die of that special session [~~and shall apply~~];

(2) Be filed only by persons listed in subsection (a) who engage in lobbying activities, or who make expenditures for the purpose of attempting to influence legislative action considered during a special session; and

(3) Apply to and include only those expenditures and contributions that relate to legislative action considered during that special session[~~.~~];

provided that those expenditures and contributions included in the report need not be included by the person filing the report in any subsequent statement of expenditures.

(c) The statement shall contain the following information:

(1) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the total sum of $25 or more per day was made by the

person filing the statement during the statement period and the amount or value of [~~such~~] the expenditure;

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

(3) The total sum or value of all expenditures for the purpose of lobbying made by the person filing the statement during the statement [~~period in excess of $750 during the statement~~] period; provided that the sum or value of each expenditure is itemized in the following categories, as applicable:

(A) Preparation and distribution of lobbying materials;

(B) Media advertising;

(C) Compensation paid to lobbyists;

(D) Fees paid to consultants [~~or~~] for services;

(E) Entertainment and events;

(F) Receptions, meals, food, and beverages;

(G) Gifts;

(H) Loans; [~~and~~]

(I) Inter-state transportation, including incidental meals and lodging; and

(J) Other disbursements;

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

(5) The subject area of the legislative and administrative action which was supported or opposed by the person filing the statement during the statement period."

SECTION 5. Section 97-4.5, Hawaii Revised Statutes, is amended to read as follows:

"[~~[~~]§97-4.5[~~]~~] **Lobbyist list.** [~~As soon as is feasible after the commencement of each regular session of the legislature, the state ethics commission shall publish a list of registered lobbyists, the names of the persons whom they represent, and other pertinent information but shall not include in such list the addresses of the lobbyists. The list shall be~~

~~supplemented from time to time as may be necessary.~~] All lobbyist registration statements shall be posted on the state ethics commission's website within a reasonable time after filing, and may be removed from the website after four years."

SECTION 6. The state ethics commission, in its discretion, may make any changes that it deems necessary to internal procedures or forms to aid in the implementation of this Act.

SECTION 7. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

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

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

INTRODUCED BY: _____

S.B. NO. 853

Report Title:
State Ethics Commission; Lobbyist Law; Lobbying; Enforcement

Description:
Makes changes to the laws governing lobbyists. Amends the definition of "expenditure," "lobbyist," and "lobbying." Allows a person who employs a lobbyist to file a notice of termination. Amends reporting requirements for reports covering special sessions of the legislature. Requires that lobbyist registration statements be posted on the state ethics commission's website within a reasonable time after filing and remain on the website for at least 4 years.

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