



HAWAII STATE ETHICS COMMISSION

State of Hawaii · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawaii 96813
50th ANNIVERSARY 1968-2018

Committee: Committee on Labor & Public Employment
Bill Number: H.B. 1854
Hearing Date/Time: January 25, 2018, 9:00 a.m.
Re: Testimony of the Hawaii State Ethics Commission in **SUPPORT** of
H.B. 1854, Relating to Lobbyists

Dear Chair Johanson and Committee Members:

The Hawaii State Ethics Commission (“Commission”) supports H.B. 1854, which amends the Lobbyists Law (Hawaii Revised Statutes chapter 97). This bill makes two modest changes to the Lobbyists Law’s enforcement provision, HRS § 97-7.

First, this bill removes the outdated requirement that the Ethics Commission prove an individual *willfully* failed to file a lobbying report. This existing statutory language – requiring the Commission to prove that an individual *intended* not to file a lobbying report – is held over from a time when violations of the Lobbyists Law were criminal offenses. The penalties have been civil, rather than criminal, for quite some time, but the criminal law state-of-mind (or *mens rea*) requirement remains. As such, the Commission respectfully asks that the references to the word “wilfully” be removed.

Second, this bill amends the Lobbyists Law so that its enforcement language mirrors the enforcement language of the Ethics Code, which was amended by the Legislature last year,¹ to ensure consistency and uniformity in Commission activity.

¹ Last year, the Legislature amended HRS § 84-39 (entitled “Administrative Fines”) – the enforcement section of the State Ethics Code, HRS chapter 84 – to read in relevant part:

- (b) No fine shall be assessed under this section unless:
 - (1) The state ethics commission convenes a hearing in accordance with section 84-31(c) and chapter 91 and a decision has been rendered by the commission; or
 - (2) The state ethics commission and respondent agree to resolve any charge of an alleged violation prior to completion of the contested case process and the resolution includes payment of an administrative fine or restitution, or both.

See Act 50 of 2017, available at <https://www.capitol.hawaii.gov/session2017/bills/GM1150.PDF>. The proposed amendments to HRS § 97-7 in HB1854 will harmonize statutory language for enforcement of the Lobbyists Law and Ethics Code.

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on H.B. No. 1854.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel



House Committee on Labor & Public Employment
Chair Aaron Johanson, Vice Chair Daniel Holt

01/25/2018 9:00 AM Room 309
HB1854 – Relating to Lobbyists

TESTIMONY / SUPPORT
Corie Tanida, Executive Director, Common Cause Hawaii

Dear Chair Johanson, Vice Chair Holt, and members of the committee:

Common Cause Hawaii supports HB1854 which would remove the mens rea requirement to prove a violation of the lobbyists law, and would clarify that the State Ethics Commission may require payment of a fine or restitution pursuant to a settlement agreement.

We agree that the “wilfull” requirement is no longer necessary as it is no longer a criminal offense when one fails to file statements or reports with the State Ethics Commission. Removing “wilfully” from this section of the ethics code would provide clarity for both lobbyists and those enforcing the ethics code.

Thank you for the opportunity to offer testimony **supporting HB1854**.



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HOUSE COMMITTEE ON LABOR & PUBLIC EMPLOYMENT

Thursday, January 25, 2018, 9 AM, Conference Room 309
HB 1854, Relating to Lobbyists

TESTIMONY

Douglas Meller, Legislative Committee, League of Women Voters of Hawaii

Chair Johanson and Committee Members:

The League of Women Voters supports HB 1854. This housekeeping bill eliminates outdated references to criminal violations in the lobbyists law and clearly authorizes the State Ethics Commission to require payment of an administrative fine or restitution pursuant to a settlement agreement.

Thank you for the opportunity to submit testimony.