
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 the Hatch Act, a
2 federal law passed in 1939 and amended in 1993, limits the
3 allowable political activities of federal and District of
4 Columbia employees, as well as some state and local government
5 employees who work in connection with federally-funded programs.
6 The federal law's purposes are to ensure that federal programs
7 are administered in a nonpartisan fashion, to protect federal
8 employees from political coercion in the workplace, and to
9 ensure that federal employees are advanced based on merit and
10 not based on political affiliation.

11 The legislature further finds that Hawaii's state code of
12 ethics under chapter 84, Hawaii Revised Statutes, promotes
13 standards of ethical conduct regarding conflicts of interests,
14 fair treatment, confidential information, and the solicitation
15 and receipt of gifts for nominated, appointed, and elected
16 officers, employees, and candidates. However, state law does



1 not contain comprehensive restrictions on political activity for
2 any state officers or employees.

3 Applying restrictions on the participation in political
4 activities of state government officers and employees who are
5 employed or hold office in state positions with adjudicatory,
6 regulatory, law enforcement, or investigative responsibilities
7 as a regular part of their duties, ensures that political
8 activity by these officers and employees does not compromise
9 public confidence and trust in government.

10 The purpose of this Act is to establish restrictions on the
11 participation in partisan political activities of certain state
12 employees and officers who regularly engage in adjudicatory,
13 regulatory, law enforcement, or investigatory duties.

14 SECTION 2. Chapter 84, Hawaii Revised Statutes, is amended
15 by adding a new part to be appropriately designated and to read
16 as follows:

17 "PART

18 GOVERNMENT OFFICERS' AND EMPLOYEES'

19 POLITICAL PARTICIPATION

20 §84- Purpose. It is the policy of the State that
21 government officers and employees should be encouraged to



1 exercise fully, freely, and without fear of penalty or reprisal,
2 and to the extent not expressly prohibited by law, their right
3 to participate or to refrain from participating in the political
4 processes of the State.

5 **§84- Applicability of part.** Effective July 1, 2019,
6 this part shall apply to every nominated, appointed, or elected
7 officer or employee of the State, including employees under
8 contract to the State, of the:

- 9 (1) Department of the attorney general;
- 10 (2) Department of defense;
- 11 (3) Campaign spending commission;
- 12 (4) Employees' retirement system;
- 13 (5) Hawaii employer-union health benefits trust fund;
- 14 (6) Hawaii labor relations board;
- 15 (7) Labor and industrial relations appeals board;
- 16 (8) Land use commission;
- 17 (9) Merit appeals board;
- 18 (10) Office of consumer protection;
- 19 (11) Office of elections;
- 20 (12) Office of environmental quality control;
- 21 (13) Public utilities commission;



- 1 (14) Regulated industries complaints office;
- 2 (15) State health planning and development agency; and
- 3 (16) State procurement office.

4 §84- Definitions.

5 "Partisan political office" means any office for which any
6 candidate is nominated or elected as representing a party any of
7 whose candidates for governor received votes in the last
8 preceding election at which gubernatorial elections were held,
9 but shall exclude any office or position within a political
10 party or affiliated organization.

11 "Political contribution" means any gift, subscription,
12 loan, advance, or deposit of money or anything of value, made
13 for any political purpose. This term includes:

- 14 (1) Any contract, promise, or agreement, express or
15 implied, whether or not legally enforceable, to make a
16 contribution for any political purpose;
- 17 (2) Any payment by any person, other than a candidate or a
18 political party or affiliated organization, of
19 compensation for the personal services of another
20 person which are rendered to any candidate or



1 political party or affiliated organization without
2 charge for any political purpose; and

3 (3) The provision of personal services for any political
4 purpose.

5 **§84- Political activity authorized; prohibitions.**

6 (a) Notwithstanding any law to the contrary, an officer or
7 employee may take an active part in political management or in
8 political campaigns, except an officer or employee shall not:

9 (1) Use the officer's or employee's official authority or
10 influence for the purpose of interfering with or
11 affecting the result of an election;

12 (2) Knowingly solicit, accept, or receive a political
13 contribution from any person, unless the person is:

14 (A) A member of the same labor organization as
15 defined under title 5 United States Code section
16 7103(4) or a state employee organization that as
17 of the effective date of Act , Session Laws of
18 Hawaii 2018, had a multicandidate political
19 committee (as defined under section 315(a)(4) of
20 the Federal Election Campaign Act of 1971 (title
21 2 United States Code 441a(a)(4)); and



- 1 (B) Not a subordinate employee;
- 2 provided that the solicitation is for a contribution
- 3 to the multicandidate political committee of such
- 4 labor organization or a state employee organization;
- 5 (3) Run for the nomination or as a candidate for election
- 6 to a partisan political office; and
- 7 (4) Knowingly solicit or discourage the participation in
- 8 any political activity of any person who:
- 9 (A) Has an application for any compensation, grant,
- 10 contract, ruling, license, permit, or certificate
- 11 pending before the employing office or agency of
- 12 the officer or employee; or
- 13 (B) Is the subject of or a participant in an ongoing
- 14 audit, investigation, or enforcement action being
- 15 carried out by the employing office or agency of
- 16 the officer or employee.
- 17 (b) No officer or employee subject to this part shall take
- 18 an active part in political management or in a political
- 19 campaign.



1 (c) All officers and employees of the State retain the
2 right to vote as the officer or employee chooses and to express
3 opinions on political subjects and candidates.

4 §84- Posting of requirements. Every state department or
5 agency and every state court shall post the requirements of this
6 part in a conspicuous place on its premises and on the
7 department's, agency's, or court's official website. The
8 commission shall prescribe the content of the posted information
9 required under this part.

10 §84- Political activities on duty; prohibition. (a) An
11 officer or employee shall not engage in political activity:

- 12 (1) While the officer or employee is on duty;
- 13 (2) In any room or building occupied in the discharge of
14 official duties by an individual employed or holding
15 office in the State or any agency or instrumentality
16 thereof;
- 17 (3) While wearing a uniform or official insignia
18 identifying the office or position of the officer or
19 employee; or
- 20 (4) Using any vehicle owned or leased by the State or any
21 agency or instrumentality thereof.



1 (b) This section shall apply to all officers and employees
 2 subject to this part, including those whose positions require
 3 duties and responsibilities that continue outside normal duty
 4 hours and while away from a normal duty post.

5 §84- Penalties. Any officer or employee who violates
 6 this part shall be subject to an administrative fine not to
 7 exceed \$1,000 for each violation as provided in section 84-39."

8 SECTION 3. This Act does not affect rights and duties that
 9 matured, penalties that were incurred, and proceedings that were
 10 begun before its effective date.

11 SECTION 4. This Act shall take effect upon its approval.

12

INTRODUCED BY: Jan J. John

Matthew Ryan

CR

Alan

Adelle A. Pitts

John J. [Signature]

Don

H.B. NO. 2420

Report Title:

Ethics; State Employees and Officials; Restrictions; Political Participation

Description:

Establishes restrictions on the participation in political activities of certain state employees and officers.

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



HB 2420

**RELATING TO
ETHICS**

HB 2420

TESTIMONY



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. 2420
Hearing Date/Time: February 8, 2018, 10:30 a.m.
Re: Testimony of the Hawaii State Ethics Commission **SUPPORTING**
THE INTENT of H.B. 2420, Relating to Ethics

Dear Chair Johanson and Committee Members:

The Hawaii State Ethics Commission (“Commission”) supports the intent of H.B. 2420, which generally seeks to enact a state-law equivalent of the federal Hatch Act.

The Commission supports efforts to ensure that state officials work to promote the best interests of the people of Hawaii. As such, the Commission supports legislation to protect state officials – and the public – from coercion by high-level state employees; likewise, the Commission supports legislation to ensure that state programs are administered in a non-partisan fashion.

The Commission respectfully suggests, however, that many of the provisions of H.B. 2420 are already covered by the Fair Treatment law, Hawaii Revised Statutes (“HRS”) § 84-13, and/or various provisions of the Elections Law, HRS chapter 11. For example, HRS § 84-13 prohibits legislators and employees from using state resources to engage in campaign-related activities (such as soliciting campaign contributions on state time, in state facilities, or using state e-mail). Likewise, HRS § 84-13 prohibits state officials from using the imprimatur of their state offices to endorse a political candidate or to coerce others into supporting a particular candidate. Furthermore, HRS § 11-354 prohibits the solicitation of political contributions in government facilities.

If the Committee is inclined to move ahead with this measure, the Commission respectfully suggests that H.B. 2420 be amended so as to complement (rather than overlap with) existing protections in both the Ethics Code and the Elections Law.

Thank you for your continuing support of the Commission’s work and for considering the Commission’s testimony on H.B. 2420.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel



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

02/08/2018 10:30 AM Room 309
HB2420 – Relating to Ethics

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

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

Common Cause Hawaii supports HB2420 with amendments, which would establish restrictions on the participation in political activities of certain state employees and officers.

We agree with the intent of this bill—to align state restrictions on the participation of political activities of state officials and employees with the federal Hatch Act. However, we note that many of these provisions are already covered by HRS Ch 84-13 and Ch 11. We urge the committee to work with the State Ethics Commission to prevent unnecessary repetition which could result in confusion.

Thank you for the opportunity to offer testimony **supporting HB2420 with amendments**.

HB-2420

Submitted on: 2/5/2018 5:36:22 PM

Testimony for LAB on 2/8/2018 10:30:00 AM

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez		Support	No

Comments:

HB 2420

**LATE
TESTIMONY**