

**SB 2142**

**SD-1**

**RELATING TO  
LOBBYISTS**

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# A BILL FOR AN ACT

RELATING TO LOBBYISTS.

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

1           SECTION 1. The purpose of this Act is to clarify that the  
2 state ethics commission may assess an administrative fine  
3 pursuant to a settlement agreement.

4           SECTION 2. Section 97-7, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

6           "(b) No fine shall be assessed unless:

- 7           (1) The commission convenes a hearing in accordance with  
8           section 97-6(c) and chapter 91[+] and a decision has  
9           been rendered by the commission; or
- 10          (2) [~~A decision has been rendered by the commission.~~] The  
11          commission and the alleged violator agree to resolve  
12          any alleged violation prior to completion of the  
13          contested case process and the resolution includes  
14          payment of an administrative fine, restitution, or  
15          both."



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

4           SECTION 4. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6           SECTION 5. This Act shall take effect upon its approval.

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**Report Title:**

State Ethics Commission Package; Lobbyists; Administrative  
Fines; Settlement Agreement

**Description:**

Clarifies that the State Ethics Commission may require payment  
of an administrative fine or restitution pursuant to a  
settlement agreement. (SD1)

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



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**TESTIMONY**



## HAWAII STATE ETHICS COMMISSION

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

Committee: Committee on Labor & Public Employment  
Bill Number: S.B. 2142 SD1  
Hearing Date/Time: March 15, 2018, 9:00 a.m.  
Re: Testimony of the Hawaii State Ethics Commission regarding S.B. 2142 SD1, Relating to Lobbyists, **IN SUPPORT WITH PROPOSED AMENDMENTS**

Dear Chair Johanson and Committee Members:

The Hawaii State Ethics Commission (“Commission”) supports S.B. 2142, which amends the Lobbyists Law (Hawaii Revised Statutes chapter 97); however, the Commission respectfully requests that the bill be amended to include additional language.

As currently written, 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,<sup>1</sup> to ensure consistency and uniformity in Commission activity. The Commission supports these amendments.

The Commission also respectfully requests that this Committee revisit proposed language, included in the original version of this measure, which removed the outdated requirement that the Ethics Commission prove an individual *willfully* failed to file a lobbying report (though as discussed below, the Commission respectfully suggests revisions to the original proposal to address the Senate’s concerns). Currently, HRS § 97-7 requires the Commission to prove that an individual *intended* not to file a lobbying report; this language is held over from a

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<sup>1</sup> 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 S.B. 2142 will harmonize statutory language for enforcement of the Lobbyists Law and Ethics Code.

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 would like to remove the word “wilfully” from the statute. However, the Commission understands the Senate’s concern that there be some flexibility in the statute for those who can demonstrate good cause for failure to file a lobbying report on time. As such, the Commission respectfully requests that this Committee insert the following compromise language into S.B. 2142 SD1, Section 2, which the Commission believes will satisfy both the Senate’s concerns and the Commission’s goals:

**97-7 Penalties; administrative fines.** (a) Any person who:

- (1) ~~[Wilfully fails]~~ Fails to file any statement or report required by this chapter without reasonable cause shown;
- (2) ~~[Wilfully files]~~ Files a statement or report containing false information or material omission of any fact without reasonable cause shown. . . .

Thank you for your continuing support of the Commission’s work and for considering the Commission’s testimony on S.B. 2142 SD1.

Very truly yours,

Daniel Gluck  
Executive Director and General Counsel



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

03/15/2018 9:00 AM Room 309  
SB2142 SD1 – Relating to Lobbyists

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

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

**Common Cause Hawaii supports SB2142 SD1 with amendments**, which would clarify that the State Ethics Commission may require payment of a fine or restitution pursuant to a settlement agreement.

We prefer the original version of SB2142 which, in addition to the aforementioned, would remove the mens rea requirement to prove a violation of the lobbyists law. 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 update our Ethics Code, and provide more consistency and clarity for both lobbyists and those enforcing the ethics code.

Thank you for the opportunity to offer testimony **supporting SB2142 SD1 with amendments**.



**SB 2142**

**SD-1**

**LATE**

**TESTIMONY**