



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
Bill Number: S.B. 2610
Hearing Date/Time: February 8, 2018, 3:30 p.m.
Re: Testimony of the Hawaii State Ethics Commission **SUPPORTING THE INTENT** of S.B. 2610, Relating to State Employees

Dear Chair Tokuda and Committee Members:

The Hawaii State Ethics Commission (“Commission”) supports the intent of S.B. 2610, which clarifies that interns are bound by the Ethics Code, Hawaii Revised Statutes (“HRS”) chapter 84.

The Commission’s current practice is to apply the Ethics Code to interns who effectively function as state employees. In Advisory Opinion No. 2006-1,¹ the Commission determined that legislative interns, who are appointed to perform state duties at the legislature, are “employees” and therefore subject to the provisions of the Ethics Code. The Commission believes that interns should generally be treated as state employees (and, therefore, should be bound by the same ethical requirements) when they perform state functions and are in a position to influence state action. The Commission supports the codification of that rule.

At present, S.B. 2610’s definition of “intern” raises questions about the scope of the law. Should the Committee decide to move forward with this measure, the Commission respectfully requests clarification regarding the following:

- Whether “intern” includes only those individuals who work for the state full-time, or whether it includes all individuals regardless of the number of hours worked;
- Whether “intern” ought to include individuals who continue to be paid by their private employers while “volunteering” for the State, or whether the Ethics Code ought to prohibit individuals from volunteering for the State altogether when they are being paid for that time by a private entity;
- Whether interns will be bound by the Post-Employment Law, HRS § 84-18,² if their

¹ Available at <http://files.hawaii.gov/ethics/advice/AO2006-1.pdf>.

² HRS § 84-18(c) states:

(c) No former employee, within twelve months after termination of the former employee’s employment, shall represent

internship lasts more than 180 days (and, relatedly, whether the Contracts Law, HRS § 84-15,³ applies to former interns).

The Commission supports the idea of ensuring that interns abide by the high ethical standards required by the Ethics Code, particularly for those interns who work full-time in the legislature or an administrative agency and who would appear to an outsider to be a full-time employee. The Commission is ready and able to administer and enforce this new provision, but respectfully requests additional clarification so as to best effectuate the Legislature's intent.

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on S.B. 2193.

Very truly yours,

Daniel Gluck
Executive Director and General Counsel

any person or business for a fee or other consideration, on matters in which the former employee participated as an employee or on matters involving official action by the particular state agency or subdivision thereof with which the former employee had actually served. This section shall not apply to a former task force member who, but for service as a task force member, would not be considered an employee.

HRS § 84-18(e) provides that this "section shall not apply to any person who is employed by the State for a period of less than one hundred and eighty days."

³ HRS § 84-15(a) provides:

(a) A state agency shall not enter into any contract to procure or dispose of goods or services, or for construction, with a legislator, an employee, or a business in which a legislator or an employee has a controlling interest, involving services or property of a value in excess of \$10,000 unless:

- (1) The contract is awarded by competitive sealed bidding pursuant to section 103D-302;
- (2) The contract is awarded by competitive sealed proposal pursuant to section 103D-303; or
- (3) The agency posts a notice of its intent to award the contract and files a copy of the notice with the state ethics commission at least ten days before the contract is awarded.