
A BILL FOR AN ACT

RELATING TO LOBBYISTS.

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

1 SECTION 1. The legislature finds that the mens rea
2 requirement to prove a violation of the lobbyist law is no
3 longer appropriate given that the failure to file a statement or
4 report with the state ethics commission is no longer a criminal
5 offense. Accordingly, the purpose of this Act is to:

6 (1) Remove the restriction on access to transcripts for
7 contested case hearings before the state ethics
8 commission;

9 (2) Remove statutory remnants from when violations of the
10 lobbyist law resulted in criminal penalties; and

11 (3) Allow the state ethics commission to assess an
12 administrative fine pursuant to a settlement
13 agreement.

14 SECTION 2. Section 97-6, Hawaii Revised Statutes, is
15 amended by amending subsection (c) to read as follows:

16 "(c) If after twenty days following service of the charge
17 and further statement of alleged violation in accordance with



1 this section, a majority of the members of the commission
2 conclude that there is probable cause to believe that a
3 violation of this chapter has been committed, then the
4 commission shall set a time and place for a hearing, giving
5 notice to the complainant and the alleged violator in the same
6 manner as provided in subsection (b). Upon the commission's
7 issuance of a notice of hearing, the charge and further
8 statement of alleged violation and the alleged violator's
9 written response thereto shall become public records. The
10 hearing shall be held within ninety days of the commission's
11 issuance of a notice of hearing. If the hearing is not held
12 within that ninety-day period, the charge and further statement
13 of alleged violation shall be dismissed; provided that any delay
14 that is at the request of, or caused by, the alleged violator
15 shall not be counted against the ninety-day period.

16 All parties shall have an opportunity to:

- 17 (1) Be heard;
- 18 (2) Subpoena witnesses and require the production of any
19 books or papers relative to the proceedings;
- 20 (3) Be represented by counsel; and
- 21 (4) Have the right of cross-examination.



1 All hearings shall be in accordance with chapter 91. All
2 witnesses shall testify under oath and the hearings shall be
3 open to the public. The commission shall not be bound by the
4 strict rules of evidence but the commission's findings shall be
5 based on competent and substantial evidence.

6 All testimony and other evidence taken at the hearing shall
7 be recorded. [~~Copies of transcripts of the record shall be~~
8 ~~available only to the complainant and the alleged violator at~~
9 ~~their own expense.~~] All fees collected under this chapter shall
10 be deposited into the general fund."

11 SECTION 3. Section 97-7, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§97-7 Penalties; administrative fines.** (a) Any person
14 who:

- 15 (1) [~~Wilfully fails~~] Fails to file any statement or report
16 required by this chapter;
- 17 (2) [~~Wilfully files~~] Files a statement or report
18 containing false information or material omission of
19 any fact;
- 20 (3) Engages in activities prohibited by section 97-5; or



1 (4) Fails to provide information required by section 97-2
 2 or 97-3;
 3 shall be subject to an administrative fine imposed by the state
 4 ethics commission that shall not exceed \$1,000 for each
 5 violation of this chapter. All fines collected under this
 6 section shall be deposited into the general fund.

7 (b) No fine shall be assessed unless [+] the state ethics
 8 commission:

9 (1) ~~[The commission convenes]~~ Convenes a hearing in
 10 accordance with section 97-6(c) and chapter 91 ~~[+]~~ and
 11 renders a decision; or

12 (2) ~~[A decision has been rendered by the commission.]~~
 13 Together with the alleged violator, agrees to resolve
 14 any alleged violation prior to completion of the
 15 contested case process, provided that the resolution
 16 includes payment of an administrative fine or
 17 restitution, or both."

18 SECTION 4. This Act does not affect rights and duties that
 19 matured, penalties that were incurred, and proceedings that were
 20 begun before its effective date.



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

3 SECTION 6. This Act shall take effect on January 28, 2081.



Report Title:

State Ethics Commission Package; Lobbyists; Fines; Hearings

Description:

Removes the restriction on access to transcripts for contested case hearings in lobbyist law. Removes statutory remnants from when violations of the lobbyist law resulted in criminal penalties. Allows the State Ethics Commission to assess an administrative fine pursuant to a settlement agreement. (HB171 HD1)

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