
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 and 2012, limits
3 the 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 interest,
14 fair treatment, confidential information, and the solicitation
15 and receipt of gifts for nominated, appointed, and elected
16 officers, employees, and candidates. The legislature also finds
17 that section 84-13, Hawaii Revised Statutes, under the fair



1 treatment law, prohibits the use of state resources for campaign
2 purposes, and section 11-354, Hawaii Revised Statutes, prohibits
3 the collection of campaign donations in state facilities.

4 However, state law does not contain comprehensive restrictions
5 on political activity for any state officers or employees.

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

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

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

20 "PART . GOVERNMENT OFFICERS' AND EMPLOYEES'
21 POLITICAL PARTICIPATION



1 **§84- Purpose.** It is the policy of the State that
2 government officers and employees should be encouraged to
3 exercise fully, freely, and without fear of penalty or reprisal,
4 and to the extent not expressly prohibited by law, their right
5 to participate or to refrain from participating in the political
6 processes of the State.

7 **§84- Applicability.** Nothing in this part shall limit,
8 modify, or supersede sections 11-8, 11-316, 11-354, 11-355, 84-
9 13, and 84-35.5.

10 **§84- Definitions.** For the purposes of this part:

11 "Covered employee" means every employee, other than persons
12 employed in clerical, secretarial, or similar positions, of the
13 following:

- 14 (1) Department of the attorney general;
- 15 (2) Department of defense;
- 16 (3) Campaign spending commission;
- 17 (4) Employees' retirement system;
- 18 (5) Hawaii employer-union health benefits trust fund;
- 19 (6) Hawaii labor relations board;
- 20 (7) Labor and industrial relations appeals board;
- 21 (8) Land use commission;



- 1 (9) Merit appeals board;
- 2 (10) Office of consumer protection;
- 3 (11) Office of elections;
- 4 (12) Office of environmental quality control;
- 5 (13) Public utilities commission;
- 6 (14) Regulated industries complaints office;
- 7 (15) State ethics commission;
- 8 (16) State health planning and development agency; and
- 9 (17) State procurement office.

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

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

- 19 (1) Any contract, promise, or agreement, express or
- 20 implied, whether or not legally enforceable, to make a
- 21 contribution for any political purpose;



1 (2) Any payment by any person, other than a candidate or a
 2 political party or affiliated organization, of
 3 compensation for the personal services of another
 4 person which are rendered to any candidate or
 5 political party or affiliated organization without
 6 charge for any political purpose; and

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

9 **§84- Political activity authorized; prohibitions. (a)**

10 A covered employee shall not:

11 (1) Use the covered employee's official authority or
 12 influence for the purpose of interfering with or
 13 affecting the result of an election;

14 (2) Knowingly solicit, accept, or receive a political
 15 contribution from any person, unless the solicitation
 16 of contribution is for a multicandidate political
 17 committee of a labor organization or a state employee
 18 organization and the covered employee is:

19 (A) A member of the same labor organization as
 20 defined under title 5 United States Code section
 21 7103(a)(4) or a state employee organization that



1 as of the effective date of Act , Session Laws
2 of Hawaii 2019, had a multicandidate political
3 committee as defined under title 2 United States
4 Code section 30116(a)(4); and

5 (B) Not a subordinate employee; or

6 (3) Knowingly solicit or discourage the support of a
7 candidate for a partisan political office from any
8 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 covered 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 covered employee.

17 (b) No covered employee shall take an active part in
18 political management or in a political campaign; provided that
19 covered employees may make campaign donations, attend campaign
20 fundraisers, and join partisan groups.



1 (c) All covered employees retain the right to vote as they
2 choose and to express opinions on political subjects and
3 candidates, except as otherwise provided by law.

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 state
8 ethics commission shall prescribe the content of the posted
9 information required under this part.

10 §84- Penalties. Any officer or employee who violates
11 this part shall be subject to an administrative fine not to
12 exceed \$1,000 for each violation as provided in section 84-39."

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

16 SECTION 4. This Act shall take effect on January 1, 2050.



Report Title:

Ethics; State Employees and Officials; Restrictions

Description:

Establishes restrictions on the participation in political activities of certain state employees and officers. Imposes penalties for violations. (HB391 HD2)

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