



## HAWAII STATE ETHICS COMMISSION

State of Hawaii · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawaii 96813

Committee: Committee on Judiciary  
Bill Number: S.B. 144, S.D.2  
Hearing Date/Time: March 11, 2019, 2:00 p.m.  
Re: Testimony of the Hawai'i State Ethics Commission in **SUPPORT** of  
S.B. 144, S.D.2, Relating to Lobbyists

Dear Chair Lee and Committee Members:

The Hawai'i State Ethics Commission (“Commission”) supports S.B. 144, S.D.2, which makes two modest changes to the Lobbyists Law’s enforcement provisions in Hawai'i Revised Statutes (“HRS”) § 97-7. The Commission also supports the proposed amendment to HRS § 97-6(c) to harmonize the Lobbyists Law with the Uniform Information Practices Act, HRS chapter 92F.

First, this bill removes the outdated requirement that the Ethics Commission prove an individual *willfully* failed to file a lobbying report. This existing statutory language – requiring the Commission to prove that an individual *intended* not to file a lobbying report – is held over from a 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 supports the proposed amendments.

Second, this bill amends the Lobbyists Law so that its enforcement language is similar to the enforcement language of the Ethics Code (which was amended by the Legislature in 2017)<sup>1</sup> to ensure consistency and uniformity in Commission activity.

---

<sup>1</sup> In 2017, 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 Commission supports an amendment to HRS chapter 97 to harmonize the enforcement provisions of chapters 84 and 97.

Finally, the Commission supports the proposed amendment to delete the penultimate sentence of HRS § 97-6(c) regarding access to transcripts of contested case hearings. The existing statutory language conflicts with the policies underlying the Uniform Information Practices Act, insofar as contested case hearings before the Commission are public (and there does not seem to be any public policy favoring a restriction on access to transcripts). As such, the Commission supports the proposed amendment to HRS § 97-6(c).<sup>2</sup>

Thank you for your continuing support of the Commission's work and for considering the Commission's testimony on S.B. 144, S.D.2.

Very truly yours,

Daniel Gluck  
Executive Director and General Counsel

---

<sup>2</sup> There is a separate issue as to the cost for respondents and the public to access these transcripts; while the Legislature is obviously welcome to address that issue via statute as well, the Commission believes it can resolve that question via administrative rule.

**SB-144-SD-2**

Submitted on: 3/9/2019 2:49:59 PM

Testimony for JUD on 3/11/2019 2:00:00 PM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Gerard Silva	Individual	Oppose	No

Comments:

This Bill will only allow them to Be More Crooked then ever. We need them to be Accountable!!!