



## HAWAI'I STATE ETHICS COMMISSION

State of Hawai'i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai'i 96813

Committee: Committee on Government Operations  
Bill Number: S.B. 557  
Hearing Date/Time: Tuesday, February 16, 2021, 3:05 p.m.  
Re: Testimony of the Hawai'i State Ethics Commission  
**SUPPORTING THE INTENT** of S.B. 557, Relating to Lobbying

Chair Moriwaki, Vice Chair Dela Cruz, and Committee Members:

The Hawai'i State Ethics Commission (“Commission”) supports the intent of S.B. 557, which expands the definition of “administrative action” in the Lobbyists Law, Hawai'i Revised Statutes (“HRS”) chapter 97, to include additional activities.

The Lobbyists Law requires registration, and the filing of periodic expenditure statements, for those who seek to influence legislative or administrative action. Currently, “administrative action” includes administrative rule-making but does not include the issuance of permits or the awarding of contracts. In principle, the Ethics Commission supports expanding the Lobbyists Law to include attempts to influence executive actions such as issuance of permits or awarding of contracts.

If this measure moves forward, the Commission respectfully requests that this Committee address several items:

Section 1: The first sentence of this measure states that lobbying rules “already apply to the procurement of goods and services.” The Lobbyists Law applies to “legislative action” and “administrative action,” both of which are defined by HRS § 97-1, but the Lobbyists Law does not necessarily encompass procurement activities. Similarly, the second sentence of Section 1 provides that “the state procurement code should be expanded...” We believe that this is intended to read “the state *lobbyists law*” rather than “the state *procurement code*,” inasmuch as this bill does not amend the state procurement code.

Section 2: Again, the Commission supports the intent of this measure. However, some agency activities relating to the issuance of permits, licenses, or other approvals are quasi-judicial rather than quasi-legislative; for example, many agencies hold contested case hearings relating to these matters, and these administrative hearings are more akin to judicial proceedings – with parties represented by counsel and presenting evidence to neutral hearings officers – than to a legislative process. It is unclear whether the Legislature, through this measure, intends to require lobbyist registration (and reporting) for attorneys representing clients in a contested case hearing.

Additionally, this amended definition of “administrative action” would apply only to “development-related” permits, licenses, or approvals. The Commission respectfully requests additional clarification as to what types of activities are “development-related” so that it could effectively administer this provision if enacted.

Section 3: If the Legislature is going to amend HRS § 97-2(e)(6), the Legislature may wish to eliminate or clarify the language that allows a *lobbyist* to invite another person to testify before the Legislature (or administrative agency) without needing to register as a lobbyist. This provision has caused confusion, and eliminating this lobbyist-invitation exception would help to clarify the statute.

In sum, the Commission supports the intent of this measure; however, if this Committee intends to move it forward, the Commission respectfully requests additional clarification on multiple provisions to allow the Commission to administer the statute effectively.

Thank you for your continuing support of the Commission’s work and for considering the Commission’s testimony on S.B. 557.

Very truly yours,

Daniel M. Gluck  
Executive Director and General Counsel

Statement Before The  
**SENATE COMMITTEE ON GOVERNMENT OPERATIONS**

Tuesday, February 16, 2021

3:05 PM

Conference Room 016 and Videoconference

in consideration of

**SB 557**

**RELATING TO LOBBYING.**

Chair MORIWAKI, Vice Chair DELA CRUZ, and Members of the  
Senate Government Operations Committee

Common Cause Hawaii provides comments on SB 557, which (1) expands the definition of "administrative action" in lobbyist law to include granting or denying applications for business or development-related permits, licenses, or approvals and (2) clarifies that lobbying laws apply to lobbying by the executive branch.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to reforming government and strengthening democracy through ethics reform.

Common Cause Hawaii understands and appreciates the intent behind SB 557. Much influence is directed at administrative agencies within the executive branch regarding business and development-related permits, licenses, or approvals. However, the broad reach of SB 557 may sweep architects, engineers, planners, surveyors, and more, who are processing permits and responding to questions and concerns by an administrative agency. It may be better to clarify the intended reach of SB 557.

Thank you for the opportunity to comment on SB 557. If you have questions of me, please contact me at [sma@commoncause.org](mailto:sma@commoncause.org).

Very respectfully yours,

Sandy Ma  
Executive Director, Common Cause Hawaii