

JAN 18 2024

A BILL FOR AN ACT

RELATING TO LOBBYING.

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

1 SECTION 1. The legislature finds that it is in the public
2 interest to have transparent disclosure of lobbying activities.
3 Under the lobbying law, chapter 97, Hawaii Revised Statutes,
4 "lobbying" an administrative agency only regards formal
5 rulemaking or other actions governed by section 91-3, Hawaii
6 Revised Statutes. Because the vast majority of an
7 administrative agency's operations are conducted outside of
8 formal rulemaking, the purpose of this Act is to expand the
9 definition of "lobbying" in section 97-1, Hawaii Revised
10 Statutes, to include certain communications regarding
11 procurement decisions, staffing or appointment decisions, the
12 development of an administrative agency's written report or
13 statement of policy, and ex parte communications regarding
14 contested case hearings. Including these matters in the
15 definition of "lobbying" promotes government transparency by
16 providing the public with additional information regarding
17 lobbying at the administrative agency level.



1 SECTION 2. Chapter 97, Hawaii Revised Statutes, is amended
2 by adding two new sections to be appropriately designated and to
3 read as follows:

4 "§97- Presumption of lobbying on behalf of private
5 clients. Unless the testimony pertains to a subject not
6 relevant to the paying person, an individual submitting
7 testimony or engaging in lobbying activities is presumed to act
8 on behalf of a paying person rather than in an individual
9 capacity.

10 §97- Contracts voidable. In addition to any other
11 penalty provided by law, any contract or other action entered
12 into by the State in violation of this chapter is voidable on
13 behalf of the State; provided that in any action to avoid a
14 contract pursuant to this section the interests of third parties
15 who may be damaged thereby shall be taken into account, and the
16 action to void the transaction is initiated within sixty days
17 after the determination of a violation under this chapter. The
18 attorney general shall have the authority to enforce this
19 section."

20 SECTION 3. Section 84-36, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "**§84-36 Cooperation.** The ethics commission may request
2 and shall receive from every department, division, board,
3 bureau, commission, or other agency of the State cooperation and
4 assistance in the performance of its duties. Legislators and
5 state employees shall report to the ethics commission potential
6 ethics violations that they know of, or reasonably should know
7 of, including any instance of actual or attempted contact or
8 solicitation by an unregistered lobbyist in violation of
9 chapter 97."

10 SECTION 4. Section 97-1, Hawaii Revised Statutes, is
11 amended as follows:

12 1. By amending the definitions of "lobbying" and
13 "lobbyist" to read:

14 ""Lobbying" means communicating directly or through an
15 agent, or soliciting others to communicate[~~, with~~]:

16 (1) With any official in the legislative or executive
17 branch, for the purpose of attempting to influence
18 [legislative or administrative]:

19 (A) Legislative action;

20 (B) Rules or other actions governed by section 91-3;

21 or [a]



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- 1 (C) A ballot issue[-]; or
- 2 (2) With the governor, the lieutenant governor,
- 3 legislators, or the director, deputy director, or
- 4 member of the governing board of an administrative
- 5 agency, outside of any public hearing, for the purpose
- 6 of attempting to influence:
- 7 (A) The solicitation or award of a contract or
- 8 proposal before an administrative agency, if any
- 9 of the communications are not authorized by
- 10 chapter 103D or chapter 103F;
- 11 (B) Staffing or appointment decisions regarding
- 12 specific positions at an administrative agency;
- 13 (C) The development or modification of an
- 14 administrative agency's written report or
- 15 statement of policy; or
- 16 (D) A specific contested case hearing, rate
- 17 proceeding, or other quasi-judicial proceeding
- 18 before an administrative agency; provided that
- 19 the communication is not governed by chapter 91
- 20 or chapter 269.



1 "Lobbying" shall not include the preparation and submission
2 of a grant application pursuant to chapter 42F by a
3 representative of a nonprofit organization.

4 "Lobbyist" means any individual who:

5 (1) Receives or expects to receive, either by employment
6 or contract, \$1,000 or more in monetary or in-kind
7 compensation in any calendar year for engaging in
8 lobbying, either personally or through the lobbyist's
9 agents; or

10 (2) For pay or other consideration, on behalf of another
11 person:

12 (A) Engages in lobbying in excess of five hours in
13 any month of any reporting period described in
14 section 97-3;

15 (B) Engages in lobbying in excess of ten hours during
16 any calendar year; [~~or~~]

17 (C) Submits testimony ten or more times during any
18 calendar year;

19 [~~(C)~~] (D) Makes expenditures of \$1,000 or more of the
20 person's or any other person's money lobbying



1 during any reporting period described in
2 section 97-3;
3 provided that an employee of a nonprofit organization who spends
4 fewer than ten hours in any month lobbying on a grant
5 application submitted pursuant to chapter 42F is not a lobbyist
6 if the employee does not engage in lobbying on matters that are
7 unrelated to the grant application."

8 2. By repealing the definition of "administrative action".

9 [~~"Administrative action" means the proposal, drafting,~~
10 ~~consideration, amendment, enactment, or defeat by any~~
11 ~~administrative agency of any rule or other action governed by~~
12 ~~section 91-3."~~]

13 SECTION 5. 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 6. If any provision of this Act, or the
17 application thereof to any person or circumstance, is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act that can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.



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Report Title:

Ethics Commission Package; Lobbying; Presumptions; Testimony

Description:

Amends the definition of "lobbying" to include certain communications regarding procurement decisions, staffing or appointment decisions, the development of an administrative agency's written report or statement of policy, and ex parte communications regarding contested case hearings. Includes among lobbyists certain persons who submit testimony 10 or more times in any calendar year. Establishes certain presumptions regarding testimony when given by a paid person. Makes certain contracts voidable when entered into in violation of lobbying law. Effective 1/1/2027.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

