

ACT 129

S.B. NO. 182

A Bill for an Act Relating to Disclosures of Financial Interests.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to provide greater uniformity, flexibility, and efficiency in assessing administrative fines related to disclosures of financial interests.

SECTION 2. Section 84-17, Hawaii Revised Statutes, is amended to read as follows:

“§84-17 Requirements of disclosure. (a) For the purposes of this section, “disclosure period” refers to the period from January 1 of the preceding calendar year to the time of the filing of the employee’s or legislator’s disclosure of financial interests.

(b) The disclosure of financial ~~[interest]~~ interests required by this section shall be filed:

- (1) By any person enumerated in subsection (c), except a member of the legislature, between January 1 and May 31 of each year;
- (2) By a member of the legislature between January 1 and January 31 of each year;
- (3) Within thirty days of a person’s election or appointment to a state position enumerated in subsection (c); or
- (4) Within thirty days of separation from a state position if a prior financial disclosure statement for the position was not filed within the one hundred eighty days preceding the date of separation;

provided that candidates for state elective offices or the constitutional convention shall file the required statements no later than ~~[twenty] ten~~ ten days ~~[prior to] after~~ the ~~[date of the primary election for state offices or the election of delegates to the constitutional convention.]~~ nomination filing deadline established pursuant to section 12-6.

(c) The following persons shall file annually with the state ethics commission a disclosure of financial interests:

- (1) The governor, ~~[the]~~ lieutenant governor, ~~[the]~~ members of the legislature, and delegates to the constitutional convention; provided that delegates to the constitutional convention shall only be required to file initial disclosures;
- (2) The directors and their deputies, the division chiefs, the executive directors and the executive secretaries and their deputies, the purchasing agents, and the fiscal officers, regardless of the titles by which the foregoing persons are designated, of every state agency and department;
- (3) The permanent employees of the legislature and its service agencies, other than persons employed in clerical, secretarial, or similar positions;
- (4) The administrative director of the State, and the assistants in the office of the governor and ~~[the]~~ lieutenant governor, other than persons employed in clerical, secretarial, or similar positions;
- (5) The hearings officers of every state agency and department;
- (6) The president, ~~[the]~~ vice presidents, assistant vice presidents, ~~[the]~~ chancellors, and ~~[the]~~ provosts of the University of Hawaii and its community colleges;

- (7) The superintendent, [the] deputy superintendent, [the] assistant superintendents, [the] complex area superintendents, [the] state librarian, and [the] deputy state librarian of the department of education;
 - (8) The administrative director and [the] deputy director of the courts;
 - (9) The members of every state board or commission whose original terms of office are for periods exceeding one year and whose functions are not solely advisory;
 - (10) Candidates for state elective offices, including candidates for election to the constitutional convention[-]; provided that candidates shall only be required to file initial disclosures;
 - (11) The administrator and assistant administrator of the office of Hawaiian affairs;
 - (12) The Hawaii unmanned aerial systems test site chief operating officer[[];[]] and
 - (13) The members of the school facilities board appointed by the governor.
- (d) The financial disclosure statements of the following persons shall be public records and available for inspection and duplication:
- (1) The governor, [the] lieutenant governor, [the] members of the legislature, candidates for and delegates to the constitutional convention, [the] trustees of the office of Hawaiian affairs, and candidates for state elective offices;
 - (2) The directors of the state departments and their deputies, regardless of the titles by which the foregoing persons are designated; provided that with respect to the department of the attorney general, the foregoing shall apply only to the attorney general and the first deputy attorney general;
 - (3) The administrative director of the State;
 - (4) The president, [the] vice presidents, [the] assistant vice presidents, [the] chancellors, members of the board of regents, and [the] provosts of the University of Hawaii;
 - (5) The members of the board of education [and the], superintendent, [the] deputy superintendent, [the] state librarian, and [the] deputy state librarian of the department of education;
 - (6) The administrative director and [the] deputy director of the courts;
 - (7) The administrator and [the] assistant administrator of the office of Hawaiian affairs; and
 - (8) The members of the following state boards, commissions, and agencies:
 - (A) The board of directors of the agribusiness development corporation established under section 163D-3;
 - (B) The board of agriculture established under section 26-16;
 - (C) The state ethics commission established under section 84-21;
 - (D) The Hawaii community development authority established under section 206E-3;
 - (E) The Hawaiian homes commission established under the Hawaiian Homes Commission Act of 1920, as amended, and section 26-17;
 - (F) The board of directors of the Hawaii housing finance and development corporation established under section 201H-3;
 - (G) The board of land and natural resources established under section 171-4;
 - (H) The state land use commission established under section 205-1;

- (I) The legacy land conservation commission established under section 173A-2.4;
- (J) The natural area reserves system commission established under section 195-6;
- (K) The board of directors of the natural energy laboratory of Hawaii authority established under section 227D-2;
- (L) The board of directors of the Hawaii public housing authority established under section 356D-3;
- (M) The public utilities commission established under section 269-2;
- (N) The commission on water resource management established under section 174C-7; and
- (O) The stadium authority established under section 109-1.

(e) The information on the financial disclosure statements shall be confidential, except as provided in subsection (d). The commission shall not release the contents of the disclosures except as may be permitted pursuant to this chapter. ~~[Any person who releases]~~ The unauthorized release of any confidential financial disclosure statement information shall be [subject to section 84-31(e)] a violation of this chapter.

(f) Candidates for state elective offices, including candidates for election to the constitutional convention, shall only be required to disclose their own financial interests. The disclosures of financial interests of all other persons designated in subsection (c) shall state, in addition to the financial interests of the person disclosing, the financial interests of the person's spouse and dependent children. All disclosures shall include:

- (1) The source and amount of all income of \$1,000 or more received, for services rendered, by the person in the person's own name or by any other person for the person's use or benefit during the preceding calendar year and the nature of the services rendered; provided that required disclosure under this paragraph for the income source of the spouse or dependent child of a person subject to subsection (d) shall be limited to the name of the business or other qualifying source of income, and need not include the income source's address; provided further that other information that may be privileged by law or individual items of compensation that constitute a portion of the gross income of the business or profession from which the person derives income need not be disclosed;
- (2) The amount and identity of every ownership or beneficial interest held during the disclosure period in any business having a value of \$5,000 or more or equal to ten per cent of the ownership of the business and, if the interest was transferred during the disclosure period, the date of the transfer; provided that an interest in the form of an account in a federal or state regulated financial institution, an interest in the form of a policy in a mutual insurance company, or individual items in a mutual fund or a blind trust, if the mutual fund or blind trust has been disclosed pursuant to this paragraph, need not be disclosed;
- (3) Every officership, directorship, trusteeship, or other fiduciary relationship held in a business during the disclosure period, the term of office and the annual compensation;
- (4) The name of each creditor to whom the value of \$3,000 or more was owed during the disclosure period and the original amount and amount outstanding; provided that debts arising out of retail installment transactions for the purchase of consumer goods need not be disclosed;

- (5) The street address and, if available, the tax map key number, and the value of any real property in which the person holds an interest whose value is \$10,000 or more, and, if the interest was transferred or obtained during the disclosure period, a statement of the amount and nature of the consideration received or paid in exchange for such interest, and the name of the person furnishing or receiving the consideration; provided that disclosure shall not be required of the street address and tax map key number of the person's residence;
- (6) The names of clients assisted or represented before state agencies, except in ministerial matters, for a fee or compensation during the disclosure period and the names of the state agencies involved; and
- (7) The amount and identity of every creditor interest in an insolvent business held during the disclosure period having a value of \$5,000 or more.

(g) Where an amount is required to be reported, the person disclosing may indicate whether the amount is at least \$1,000 but less than \$10,000; at least \$10,000 but less than \$25,000; at least \$25,000 but less than \$50,000; at least \$50,000 but less than \$100,000; at least \$100,000 but less than \$150,000; at least \$150,000 but less than \$250,000; at least \$250,000 but less than \$500,000; at least \$500,000 but less than \$750,000; at least \$750,000 but less than \$1,000,000; or \$1,000,000 or more. An amount of stock may be reported by number of shares.

(h) The state ethics commission shall provide a method for filing financial disclosure statements. The commission may require that financial disclosure statements be filed electronically.

(i) Failure of a legislator, a delegate to the constitutional convention, or an employee to file a disclosure of financial interests as required by this section shall be a violation of this chapter. Any legislator, delegate to a constitutional convention, or employee who fails to file a disclosure of financial interests when due ~~[shall]~~ may be assessed an administrative fine of ~~[\$75-]~~ \$50. The state ethics commission, upon the expiration of the time allowed for filing, may post on its website for public inspection a list of all persons who have failed to file financial disclosure statements. The state ethics commission shall notify a person, by in-person service, electronic mail to the person's state electronic mail address, or ~~[first-class]~~ first-class mail, of the failure to file, and ~~[the disclosure of financial interests shall be submitted to the state ethics commission not later than 4:30 p.m. on the tenth day after notification of the failure to file has been mailed to the person-], if applicable, the administrative fine.~~ If a disclosure of financial interests has not been filed within ~~[ten days of the due date, an additional administrative fine of \$10 for each day a disclosure remains unfiled shall be added to the administrative fine. All administrative fines collected under this section shall be deposited in the State's general fund. Any administrative fine for late filing shall be in addition to any other action the state ethics commission may take under this chapter for violations of the state ethics code. The state ethics commission may waive any administrative fines assessed under this subsection for good cause shown-]~~ thirty days after the original deadline, in addition to any initial administrative fine that may have been assessed, an administrative fine of \$250 may be assessed.

(j) The chief election officer, upon receipt of the nomination paper of any person seeking a state elective office, including the office of delegate to the constitutional convention, shall notify the state ethics commission of the name of the candidate for state office and the date on which the person filed the nomination paper. Any candidate who fails to file a disclosure of financial interests when due may be assessed an administrative fine of \$50. The state ethics commission, upon the expiration of the time allowed for filing, ~~[shall release to the]~~

may post on its website for public inspection a list of all candidates who have failed to file financial disclosure statements [and shall immediately assess a late filing penalty fee against those candidates of \$50, which shall be collected by the state ethics commission and deposited into the general fund. The state ethics commission may investigate, initiate, or receive charges as to whether a candidate's financial disclosure statement discloses the financial interests required to be disclosed. After proceeding in conformance with section 84-31, the state ethics commission may issue a decision as to whether a candidate has complied with section 84-17(f) and this decision shall be a matter of public record]. The state ethics commission shall notify a candidate, by in-person service, electronic mail to the candidate's electronic mail address listed with the office of elections, or first-class mail, of the failure to file and, if applicable, the administrative fine. If a disclosure of financial interests has not been filed within thirty days after the original deadline, in addition to any initial administrative fine that may have been assessed, an administrative fine of \$250 may be assessed.

(k) If notice and order of an administrative fine has been issued pursuant to this section, the order shall become final on the twentieth day after it is served upon the alleged violator, unless the alleged violator submits a written request for a hearing before the state ethics commission on or before the twentieth day. After conducting a hearing pursuant to chapter 91, the state ethics commission may affirm, modify, or rescind the order as appropriate. The state ethics commission may file with the circuit court of the first circuit any order the commission has issued pursuant to this section for the purpose of confirming the order as a final judgment that shall have the same force and effect and shall be enforceable and collectable as other judgments issued by the circuit courts; provided that there shall be no appeal from the judgment.

(l) All administrative fines collected under this section shall be deposited into the general fund. Any administrative fine for the late filing of a disclosure of financial interests shall be in addition to any other action the state ethics commission may take pursuant to this chapter. The state ethics commission may waive any administrative fines authorized pursuant to this section for good cause shown.

(m) The state ethics commission may investigate, initiate, or receive charges on whether a candidate's financial disclosure statement discloses the financial interests required to be disclosed. After proceeding in conformance with section 84-31, the state ethics commission may issue a decision on whether a candidate has complied with subsection (f). This decision shall be a matter of public record."

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

SECTION 4. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 5. This Act shall take effect upon its approval.

(Approved June 23, 2023.)