

JAN 19 2007

A BILL FOR AN ACT

RELATING TO ETHICS.

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

1 SECTION 1. Section 84-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§84-2~~ **Applicability.** This chapter shall apply to every
4 nominated, appointed, or elected officer, employee, and
5 candidate to elected office of the State and for election to the
6 constitutional convention~~[, but excluding justices and judges,~~
7 ~~provided that [in]:~~

8 (1) In the case of elected delegates and employees of the
9 constitutional convention, this chapter shall apply
10 only to the enforcement and administration of the code
11 of ethics adopted by the constitutional convention~~[-];~~

12 (2) In the case of justices and judges, this chapter shall
13 apply only to the financial disclosures required under
14 section 84-17."

15 SECTION 2. Section 84-3, Hawaii Revised Statutes, is
16 amended by amending the definition of "state agency" to read as
17 follows:



1 ""State agency" includes the State, the legislature and its
2 committees, all executive departments, boards, commissions,
3 committees, bureaus, offices, the University of Hawaii, and all
4 independent commissions and other establishments of the state
5 government [~~but excluding the courts~~]."

6 SECTION 3. Section 84-17, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By amending subsection (a) to read:

9 "(a) For the purposes of this section, the terms:

10 "Disclosure period" refers to the period from January 1 of
11 the preceding calendar year to the time of the filing of the
12 employee's [~~e~~], legislator's, justice's, or judge's disclosure
13 of financial interests.

14 "Substantially the same" refers to no more than ten
15 amendments or changes to the information reported for the
16 preceding disclosure period."

17 2. By amending subsections (c) and (d) to read:

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

20 (1) The governor, the lieutenant governor, justices of the
21 supreme court, judges of the intermediate appellate
22 court, judges of the circuit courts, and full-time



1 judges of the district and district family courts, the
2 members of the legislature, and delegates to the
3 constitutional convention; provided that delegates to
4 the constitutional convention shall only be required
5 to file initial disclosures;

6 (2) The directors and their deputies, the division chiefs,
7 the executive directors and the executive secretaries
8 and their deputies, the purchasing agents and the
9 fiscal officers, regardless of the titles by which the
10 foregoing persons are designated, of every state
11 agency and department;

12 (3) The permanent employees of the legislature and its
13 service agencies, other than persons employed in
14 clerical, secretarial, or similar positions;

15 (4) The administrative director of the State, and the
16 assistants in the office of the governor and the
17 lieutenant governor, other than persons employed in
18 clerical, secretarial, or similar positions;

19 (5) The hearings officers of every state agency and
20 department;



- 1 (6) The president, the vice presidents, assistant vice
2 presidents, the chancellors, and the provosts of the
3 University of Hawaii and its community colleges;
- 4 (7) The superintendent, the deputy superintendent, the
5 assistant superintendents, the complex area
6 superintendents, the state librarian, and the deputy
7 state librarian of the department of education;
- 8 (8) The administrative director and the deputy director of
9 the courts;
- 10 (9) The members of every state board or commission whose
11 original terms of office are for periods exceeding one
12 year and whose functions are not solely advisory;
13 provided that the governor's special advisory council
14 for technology development established pursuant to
15 section 27-42 not otherwise subject to this subsection
16 shall be exempt from this subsection;
- 17 (10) Candidates for state elective offices, including
18 candidates for election to the constitutional
19 convention, provided that candidates shall only be
20 required to file initial disclosures; and
- 21 (11) The administrator and assistant administrator of the
22 office of Hawaiian affairs.



1 (d) The financial disclosure statements of the following
2 persons shall be public records and available for inspection and
3 duplication:

4 (1) The governor, the lieutenant governor, the members of
5 the legislature, candidates for and delegates to the
6 constitutional convention, the members of the board of
7 education, the trustees of the office of Hawaiian
8 affairs, and candidates for state elective offices;

9 (2) The justices of the supreme court, judges of the
10 intermediate appellate court, judges of the circuit
11 courts, and full-time judges of the district and
12 district family courts;

13 [~~+2~~] (3) The directors of the state departments and their
14 deputies, regardless of the titles by which the
15 foregoing persons are designated; provided that with
16 respect to the department of the attorney general, the
17 foregoing shall apply only to the attorney general and
18 the first deputy attorney general;

19 [~~+3~~] (4) The administrative director of the State;

20 [~~+4~~] (5) The president, the vice presidents, the assistant
21 vice presidents, the chancellors, and the provosts of
22 the University of Hawaii;



1 ~~(5)~~ (6) The superintendent, the deputy superintendent,
2 the state librarian, and the deputy state librarian of
3 the department of education;

4 ~~(6)~~ (7) The administrative director and the deputy
5 director of the courts; and

6 ~~(7)~~ (8) The administrator and the assistant administrator
7 of the office of Hawaiian affairs."

8 3. By amending subsection (i) to read:

9 "(i) Failure of a justice or judge, legislator, a delegate
10 to the constitutional convention, or employee to file a
11 disclosure of financial interests as required by this section
12 shall be a violation of this chapter. Any justice or judge,
13 legislator, delegate to a constitutional convention, or employee
14 who fails to file a disclosure of financial interests when due
15 shall be assessed an administrative fine of \$50. The state
16 ethics commission shall notify a person, by registered mail,
17 return receipt requested, of the failure to file, and the
18 disclosure of financial interests shall be submitted to the
19 commission not later than 4:30 p.m. on the tenth day after
20 notification of the failure to file has been mailed to the
21 person. If a disclosure of financial interests has not been
22 filed within ten days of the due date, an additional



1 administrative fine of \$10 for each day a disclosure remains
2 unfiled shall be added to the administrative fine. All
3 administrative fines collected under this section shall be
4 deposited in the State's general fund. Any administrative fine
5 for late filing shall be in addition to any other action the
6 commission may take under this chapter for violations of the
7 state ethics code. The commission may waive any administrative
8 fines assessed under this subsection for good cause shown."

9 SECTION 4. Section 84-31, Hawaii Revised Statutes, is
10 amended as follows:

11 1. By amending subsection (a) to read:

12 "(a) The ethics commission shall have the following powers
13 and duties:

14 (1) It shall prescribe forms for the disclosures required
15 by Article XIV of the Hawaii Constitution and section
16 84-17 and the gifts disclosure statements required by
17 section 84-11.5 and shall establish orderly procedures
18 for implementing the requirements of those provisions;

19 (2) It shall render advisory opinions [~~upon~~]

20 (A) Upon the request of any legislator, employee, or
21 delegate to the constitutional convention, or
22 person formerly holding such office or employment



1 as to whether the facts and circumstances of a
2 particular case constitute or will constitute a
3 violation of the code of ethics[-]; and

4 (B) To justices and judges regarding the disclosure
5 of financial interests.

6 If no advisory opinion is rendered within thirty days
7 after the request is filed with the commission, it
8 shall be deemed that an advisory opinion was rendered
9 and that the facts and circumstances of that
10 particular case do not constitute a violation of the
11 code of ethics. The opinion rendered or deemed
12 rendered, until amended or revoked, shall be binding
13 on the commission in any subsequent charges concerning
14 the justice, judge, legislator, employee, or delegate
15 to the constitutional convention, or person formerly
16 holding such office or employment, who sought the
17 opinion and acted in reliance on it in good faith,
18 unless material facts were omitted or misstated by
19 such persons in the request for an advisory opinion;

20 (3) It shall initiate, receive, and consider charges
21 concerning alleged violation of this chapter, initiate
22 or make investigation, and hold hearings;



1 (4) It may subpoena witnesses, administer oaths, and take
2 testimony relating to matters before the commission
3 and require the production for examination of any
4 books or papers relative to any matter under
5 investigation or in question before the commission.
6 Before the commission shall exercise any of the powers
7 authorized in this section with respect to any
8 investigation or hearings it shall by formal
9 resolution, supported by a vote of three or more
10 members of the commission, define the nature and scope
11 of its inquiry;

12 (5) It may, from time to time adopt, amend, and repeal any
13 rules, not inconsistent with this chapter, that in the
14 judgment of the commission seem appropriate for the
15 carrying out of this chapter and for the efficient
16 administration thereof, including every matter or
17 thing required to be done or which may be done with
18 the approval or consent or by order or under the
19 direction or supervision of or as prescribed by the
20 commission. The rules, when adopted as provided in
21 chapter 91, shall have the force and effect of law;



- 1 (6) It shall have jurisdiction for purposes of
2 investigation and taking appropriate action on alleged
3 violations of this chapter in all proceedings
4 commenced within six years of an alleged violation of
5 this chapter by a justice, judge, legislator [~~or~~],
6 employee [~~or~~], former legislator, or employee. A
7 proceeding shall be deemed commenced by the filing of
8 a charge with the commission or by the signing of a
9 charge by three or more members of the commission.
10 Nothing herein shall bar proceedings against a person
11 who by fraud or other device, prevents discovery of a
12 violation of this chapter;
- 13 (7) It shall distribute its publications without cost to
14 the public and shall initiate and maintain programs
15 with the purpose of educating the citizenry and all
16 legislators, delegates to the constitutional
17 convention, and employees on matters of ethics in
18 government employment; and
- 19 (8) It shall administer any code of ethics adopted by a
20 state constitutional convention, subject to the
21 procedural requirements of this part and any rules
22 adopted thereunder."



1 2. By amending subsection (d) to read:

2 "(d) A decision of the commission pertaining to the
3 conduct of any justice, judge, legislator, delegate to the
4 constitutional convention, or employee or person formerly
5 holding such office or employment shall be in writing and signed
6 by three or more of the members of the commission. A decision
7 of the commission rendered after a hearing together with
8 findings and the record of the proceeding shall be a public
9 record."

10 SECTION 5. Section 84-32, Hawaii Revised Statutes, is
11 amended by amending subsection (a) to read as follows:

12 "(a) With respect to justices, judges, legislators, and
13 employees removable only by impeachment: when the ethics
14 commission after due hearings pursuant to section 84-31(c)
15 determines that there is sufficient cause to file a complaint
16 against a justice, judge, legislator, or an employee removable
17 only by impeachment, it shall issue a complaint and refer the
18 matter to the appropriate body of the legislature[+] or to the
19 chief justice of the supreme court, in the case of a justice or
20 judge. The complaint shall contain a statement of the facts
21 alleged to constitute the violation. The complaint shall be a
22 matter of public record. The legislature or the chief justice,



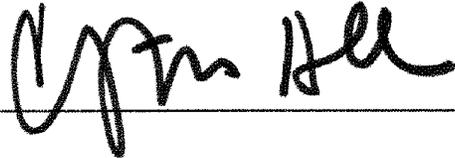
1 as the case may be, shall take appropriate disciplinary action
 2 unless it determines that disciplinary action is not warranted
 3 and, within thirty days of the referral of the complaint, shall
 4 notify the commission of the action taken. Days during which
 5 the legislature is not in session shall not be included in
 6 determining the thirty-day period. Any disciplinary action
 7 taken by the legislature~~[7]~~ or the chief justice, as the case
 8 may be, or the fact that no disciplinary action is taken, shall
 9 be a matter of public record."

10 SECTION 6. Section 84-38, Hawaii Revised Statutes, is
 11 amended to read as follows:

12 "[+]§84-38[+] **Judicial branch.** The powers and duties
 13 assigned in this part IV to the governor shall, with respect to
 14 justices, judges, and employees in the judicial branch, be
 15 assigned to the chief justice of the supreme court."

16 SECTION 7. Statutory material to be repealed is bracketed
 17 and stricken. New statutory material is underscored.

18 SECTION 8. This Act shall take effect upon its approval.

19
 INTRODUCED BY: 



Report Title:

Ethics; Financial Disclosures; Justices and Judges

Description:

Extends the requirements of financial disclosures to justices and judges.

