

JAN 23 2015

---

# A BILL FOR AN ACT

RELATING TO ETHICS.

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

1       SECTION 1. The legislature finds that a properly  
2       functioning democracy is important to the health of our  
3       community. Our democratic governance system depends upon  
4       decision making processes free from undue influence by parties  
5       favoring narrow and special interests to the detriment of the  
6       general interests of the populace as a whole.

7       While all interests, public and private, may legitimately  
8       participate in the making of public policy, for those interests  
9       most able to wield influence, public accountability is necessary  
10      to limit lobbying practices harmful to our democracy. Public  
11      disclosure and transparency of lobbying activities of all types  
12      are critical to provide accountability, enhance public trust,  
13      and reduce the existence and perception of undue influence in  
14      government policy making.

15      The legislature finds that lobbyist and public official  
16      financial disclosure laws do not require lobbyists or public  
17      officials to report contracts for work between lobbyists and



1 public officials if they are business professionals.  
2 Legislators who are attorneys, realtors, certified public  
3 accountants, insurance agents, contractors, and marketing and  
4 other consultants, and who engage in private business are not  
5 required to disclose their contracts with parties that lobby the  
6 legislature. Lobbyists are also not required to disclose these  
7 contractual relationships, even if the contractual relationship  
8 provides a significant source of income to the legislator.

9       The lobbyist disclosure law also does not provide for the  
10 disclosure of other ways of influencing policy makers. During  
11 legislative deliberations, lobbyists can donate significantly to  
12 the political campaigns of legislators, and the disclosure  
13 reports that are required to be filed are not due until after  
14 the legislature adjourns. Therefore, even if a legislator takes  
15 initiative to disclose financial relationships with lobbyists,  
16 the information is not available to the public when it is most  
17 relevant.

18       The purpose of this Act is to strengthen the democracy of  
19 our State by providing for transparency and fairness in the  
20 following ways:



- (1) Requiring lobbyists and public officials to report their financial and contractual relationships and transaction amounts;
- (2) Requiring lobbyists to disclose certain events attended by legislators;
- (3) Requiring lobbyists and their clients to disclose all campaign donations made during the legislative session;
- (4) Requiring lobbyists to file disclosure reports at the end of each of the months that the legislature is in session;
- (5) Requiring legislators, the governor, and the lieutenant governor to file financial disclosure reports by January 31 after the beginning of each regular legislative session;
- (6) Amending the definition of "administrative action" to include granting or denying an application for a business- or development-related permit, license, or approval and the procurement of goods and services through contracts covered by the procurement code; and



(7) Requiring the state ethics commission to receive electronic statements in lieu of paper documents required to be filed pursuant to chapter 97, Hawaii Revised Statutes.

SECTION 2. Section 84-3, Hawaii Revised Statutes, is amended by adding five new definitions to be appropriately inserted and to read as follows:

"Candidate" means an individual who seeks nomination for election, or seeks election to office. An individual remains a candidate until the individual's candidate committee terminates registration with the commission. An individual is a candidate if the individual does any of the following:

(1) Files nomination papers for an office for the individual with the county clerk's office or with the chief election officer's office, whichever is applicable;

(2) Receives contributions, makes expenditures, or incurs financial obligations of more than \$100 to bring about the individual's nomination for election, or to bring about the individual's election to office;



(3) Gives consent for any other person to receive contributions, make expenditures, or incur financial obligations to aid the individual's nomination for election, or the individual's election, to office; or

(4) Is certified to be a candidate by the chief election officer or county clerk.

"Candidate committee" means an organization, association, or individual that receives campaign funds, makes expenditures, or incurs financial obligations on behalf of a candidate with the candidate's authorization.

"Committee" means:

(1) Any organization, association, or individual that accepts or makes a contribution or makes an expenditure for or against any:

(A) Candidate;

(B) Individual who files for nomination at a later date and becomes a candidate;

(C) Party; or

(D) Question or issue appearing on the ballot at the next applicable election with or without the



1           authorization of the candidate, individual, or  
2           party; or

3       (2) Any organization, association, or individual that  
4       raises or holds money or anything of value for a  
5       political purpose, with or without the consent or  
6       knowledge of any:

7       (A) Candidate;

8       (B) Individual who files for nomination at a later  
9       date and becomes a candidate; or

10       (C) Party; and

11       subsequently contributes money or anything of value  
12       to, or makes expenditures on behalf of, the candidate,  
13       individual, or party.

14           Notwithstanding any of the foregoing, the term  
15       "committee" shall not include any individual making a  
16       contribution or expenditure of the individual's own  
17       funds or anything of value that the individual  
18       originally acquired for the individual's own use and  
19       not for the purpose of evading any provision of this  
20       chapter, or any organization that raises or expends  
21       funds for the sole purpose of the production and



1           dissemination of informational and educational  
2           advertising.

3           "Contractual relationship" means the business relationship  
4           between two or more parties, under which the parties make  
5           promises to each other, the breach of which the law provides a  
6           remedy, or the performance of which the law recognizes as a  
7           duty.

8           "Contribution" includes a gift, subscription, forgiveness  
9           of a loan, advance, or deposit of money, or anything of value  
10           and includes a contract, promise, or agreement, whether or not  
11           enforceable, to make a contribution."

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

14           1. By amending subsections (b) and (c) to read:

15           "(b) The disclosure of financial interest required by this  
16           section shall be filed:

17           (1) By any person enumerated in subsection (c), except the  
18           governor, lieutenant governor, and a member of the  
19           legislature, between January 1 and May 31 of each  
20           year;



(2) By the governor, lieutenant governor, and 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 days prior to the date of the primary election  
for state offices or the election of delegates to the  
constitutional convention.

(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





1           file initial disclosures; provided further that the  
2           governor, lieutenant governor, and members of the  
3           legislature shall file their financial disclosure  
4           statements by January 31 after the beginning of each  
5           regular legislative session;

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;



(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; and

(11) The administrator and assistant administrator of the office of Hawaiian affairs."

2. By amending subsection (f) to read:

"(f) Candidates for state elective offices, including candidates for election to the constitutional convention, shall



1 only be required to disclose their own financial interests. The  
2 disclosures of financial interests of all other persons  
3 designated in subsection (c) shall state, in addition to the  
4 financial interests of the person disclosing, the financial  
5 interests of the person's spouse and dependent children. All  
6 disclosures shall include:

- 7 (1) The source and amount of all income of \$1,000 or more  
8 received, for services rendered, by the person in the  
9 person's own name or by any other person for the  
10 person's use or benefit during the preceding calendar  
11 year and the nature of the services rendered; provided  
12 that required disclosure under this paragraph for the  
13 income source of the spouse or dependent child of a  
14 person subject to subsection (d) shall be limited to  
15 the name of the business or other qualifying source of  
16 income, and need not include the income source's  
17 address; provided further that other information that  
18 may be privileged by law or individual items of  
19 compensation that constitute a portion of the gross  
20 income of the business or profession from which the  
21 person derives income need not be disclosed;



1           (2) The amount and identity of every ownership or  
2           beneficial interest held during the disclosure period  
3           in any business having a value of \$5,000 or more or  
4           equal to ten per cent of the ownership of the business  
5           and, if the interest was transferred during the  
6           disclosure period, the date of the transfer; provided  
7           that an interest in the form of an account in a  
8           federal or state regulated financial institution, an  
9           interest in the form of a policy in a mutual insurance  
10          company, or individual items in a mutual fund or a  
11          blind trust, if the mutual fund or blind trust has  
12          been disclosed pursuant to this paragraph, need not be  
13          disclosed;

14          (3) Every officership, directorship, trusteeship, or other  
15          fiduciary relationship held in a business during the  
16          disclosure period, the term of office and the annual  
17          compensation;

18          (4) The name of each creditor to whom the value of \$3,000  
19          or more was owed during the disclosure period and the  
20          original amount and amount outstanding; provided that  
21          debts arising out of retail installment transactions



1           for the purchase of consumer goods need not be  
2           disclosed;

3       (5)   The street address and, if available, the tax map key  
4           number, and the value of any real property in which  
5           the person holds an interest whose value is \$10,000 or  
6           more, and, if the interest was transferred or obtained  
7           during the disclosure period, a statement of the  
8           amount and nature of the consideration received or  
9           paid in exchange for such interest, and the name of  
10          the person furnishing or receiving the consideration;  
11          provided that disclosure shall not be required of the  
12          street address and tax map key number of the person's  
13          residence;

14       (6)   The names of clients personally represented before  
15           state agencies, except in ministerial matters, for a  
16           fee or compensation during the disclosure period and  
17           the names of the state agencies involved; [~~and~~]

18       (7)   The amount and identity of every creditor interest in  
19           an insolvent business held during the disclosure  
20           period having a value of \$5,000 or more[~~-~~]; and



(8) All contractual relationships in existence during the disclosure period between the person and a lobbyist or a person who has hired a lobbyist, the names of the parties to the contract, a description of the contract, and monetary amounts of \$1,000 or more paid by one party to another party under the contract during the disclosure period."

SECTION 4. Chapter 97, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**"CHAPTER 97**

**LOBBYISTS; LOBBYING ACTIVITIES"**

SECTION 5. Section 97-1, Hawaii Revised Statutes, is amended to read as follows:

**"§97-1 Definitions.** When used in this chapter:

~~[(1)]~~ "Administrative action" means the ~~[proposal]~~:

(1) Proposal, drafting, consideration, amendment, enactment, or defeat by any administrative agency of any rule, regulation, or other action governed by section 91-3~~[-]~~;

(2) Granting or denying by an administrative agency of an application for a business- or development-related



1           permit, license, or approval as required by state law;

2           or

3           (3) Procurement of goods and services through contracts  
4           covered by the Hawaii public procurement code.

5           ~~[(+)]~~ "Administrative agency" means a commission, board,  
6           agency, or other body, or official in the state  
7           government that is not a part of the legislative or  
8           judicial branch.

9           "Candidate" means an individual who seeks nomination for  
10          election, or seeks election, to office. An individual remains a  
11          candidate until the individual's candidate committee terminates  
12          registration with the commission. An individual is a candidate  
13          if the individual does any of the following:

14          (1) Files nomination papers for an office for the  
15          individual with the county clerk's office or with the  
16          chief election officer's office, whichever is  
17          applicable;

18          (2) Receives contributions, makes expenditures, or incurs  
19          financial obligations of more than \$100 to bring about  
20          the individual's nomination for election, or to bring  
21          about the individual's election to office;



1       (3) Gives consent for any other person to receive  
2           contributions, make expenditures, or incur financial  
3           obligations to aid the individual's nomination for  
4           election, or the individual's election, to office; or

5       (4) Is certified to be a candidate by the chief election  
6           officer or county clerk.

7       "Candidate committee" means an organization, association,  
8       or individual that receives campaign funds, makes expenditures,  
9       or incurs financial obligations on behalf of a candidate with  
10       the candidate's authorization.

11       "Committee" means:

12       (1) Any organization, association, or individual that  
13           accepts or makes a contribution or makes an  
14           expenditure for or against any:

15           (A) Candidate;

16           (B) Individual who files for nomination at a later  
17           date and becomes a candidate;

18           (C) Party; or

19           (D) Question or issue appearing on the ballot at the  
20           next applicable election, with or without the





1                   authorization of the candidate, individual, or  
2                   party; or

3       (2) Any organization, association, or individual that  
4           raises or holds money or anything of value for a  
5           political purpose, with or without the consent or  
6           knowledge of any:

7           (A) Candidate;

8           (B) Individual who files for nomination at a later  
9           date and becomes a candidate; or

10          (C) Party; and

11           subsequently contributes money or anything of value  
12           to, or makes expenditures on behalf of, the candidate,  
13           individual, or party.

14           Notwithstanding any of the foregoing, the term  
15           "committee" shall not include any individual making a  
16           contribution or expenditure of the individual's own  
17           funds or anything of value that the individual  
18           originally acquired for the individual's own use and  
19           not for the purpose of evading any provision of this  
20           chapter or any organization that raises or expends  
21           funds for the sole purpose of the production and



1           dissemination of informational and educational  
2           advertising.

3           "Contractual relationship" means the business relationship  
4           between two or more parties, under which the parties make  
5           promises to each other, the breach of which the law provides a  
6           remedy, or the performance of which the law recognizes as a  
7           duty.

8           [+3+] "Contribution" includes a gift, subscription,  
9           forgiveness of a loan, advance, or deposit of money, or anything  
10          of value and includes a contract, promise, or agreement, whether  
11          or not enforceable, to make a contribution.

12          [+4+] "Expenditure" includes a payment, distribution,  
13          forgiveness of a loan, advance, deposit, or gift of money, or  
14          anything of value and includes a contract, promise, or  
15          agreement, whether or not enforceable, to make an expenditure.

16          ~~["Expenditure" also]~~ The term includes compensation or other  
17          consideration paid to a lobbyist for the performance of lobbying  
18          services. ~~["Expenditure"]~~ The term excludes the expenses of  
19          preparing written testimony and exhibits for a hearing before  
20          the legislature or an administrative agency.



1       ~~[(5)]~~ "Legislative action" means the sponsorship,  
2       drafting, introduction, consideration, modification, enactment,  
3       or defeat of any bill, resolution, amendment, report,  
4       nomination, appointment, or any other matter pending or proposed  
5       in the legislature.

6       ~~[(6)] "Lobbyist" means any individual who for pay or other~~  
7       ~~consideration engages in lobbying in excess of five hours in any~~  
8       ~~month of any reporting period described in section 97-3 or~~  
9       ~~spends more than \$750 lobbying during any reporting period~~  
10      ~~described in section 97-3.~~

11      ~~[(7)]~~ "Lobbying" means communicating directly or through an  
12      agent, or soliciting others to communicate, with any official in  
13      the legislative or executive branch, for the purpose of  
14      attempting to influence legislative or administrative action or  
15      a ballot issue.

16      "Lobbyist" means any individual who for pay or other  
17      consideration engages in lobbying in excess of five hours in any  
18      month of any reporting period described in section 97-3 or  
19      spends more than \$750 lobbying during any reporting period  
20      described in section 97-3.



1       [+8+] "Person" means a corporation, individual, union,  
2       association, firm, sole proprietorship, partnership, committee,  
3       club, or any other organization or a representative of a group  
4       of persons acting in concert."

5       SECTION 6. Section 97-3, Hawaii Revised Statutes, is  
6       amended to read as follows:

7       **"§97-3 Contributions and expenditures; statement. (a)**

8       The following persons shall file a statement of contributions,  
9       contractual relationships, and expenditures with the state  
10      ethics commission [~~on March 31, May 31, and January 31 of each~~  
11      ~~year and within thirty days after adjournment sine die of any~~  
12      ~~special session of the legislature] by the dates set forth in  
13      subsection (b):~~

14      (1) Each lobbyist;

15      (2) Each person who spends \$750 or more of the person's or  
16      any other person's money in any [~~six-month~~] reporting  
17      period for the purpose of attempting to influence  
18      legislative or administrative action or a ballot issue  
19      by communicating or urging others to communicate with  
20      public officials; provided that any amounts expended  
21      for travel costs, including incidental meals and



lodging, shall not be included in the tallying of the \$750; and

(3) Each person who employs or contracts for the services of one or more lobbyists, whether independently or jointly with other persons. If the person is an industry, trade, or professional association, only the association is the employer of the lobbyist.

(b) ~~[The March 31 report shall cover the period from January 1 through the last day of February. The May 31 report shall cover the period from March 1 through April 30. The January 31 report shall cover the period from May 1 through December 31 of the previous year. The report to be filed within thirty days after adjournment sine die of a special session of the legislature shall cover the period from May 1 through adjournment sine die of that special session and shall apply to and include only those expenditures and contributions that relate to legislative action considered during that special session.]~~ The persons described in subsection (a) shall file a report for each month during the period from January through May of each year, and for any other month during the year in which the legislature is in session. Each monthly report shall be



1 filed within fifteen calendar days following the end of the  
2 month for which a report is required. Additionally, the persons  
3 described in subsection (a) shall file a report on January 15 of  
4 each year for the period covering June 1 through December 31 of  
5 the preceding year.

6 (c) The statement shall contain the following information:

7 (1) The name and address of each person with respect to  
8 whom expenditures for the purpose of lobbying in the  
9 total sum of \$25 or more per day was made by the  
10 person filing the statement during the statement  
11 period and the amount or value of such expenditure;

12 (2) The name and address of each person with respect to  
13 whom expenditures for the purpose of lobbying in the  
14 aggregate of \$150 or more was made by the person  
15 filing the statement during the statement period and  
16 the amount or value of such expenditures;

17 (3) The total sum or value of all expenditures for the  
18 purpose of lobbying made by the person filing the  
19 statement during the statement period in excess of  
20 \$750 during the statement period; provided that the



1           sum or value of each expenditure is itemized in the  
2           following categories, as applicable:

3           (A)   Preparation and distribution of lobbying  
4                 materials;

5           (B)   Media advertising;

6           (C)   Compensation paid to lobbyists;

7           (D)   Fees paid to consultants or services;

8           (E)   Entertainment and events;

9           (F)   Receptions, meals, food, and beverages;

10          (G)   Gifts;

11          (H)   Loans; and

12          (I)   Other disbursements;

13          (4)   The name and address of each person making  
14                 contributions to the person filing the statement for  
15                 the purpose of lobbying in the total sum of \$25 or  
16                 more during the statement period and the amount or  
17                 value of such contributions; [~~and~~]

18          (5)   The subject area of the legislative and administrative  
19                 action which was supported or opposed by the person  
20                 filing the statement during the statement period[-];



1       (6) All campaign contributions made by the person to a  
2       candidate, candidate's committee, or elected state  
3       official during the statement period;

4       (7) All contractual relationships in existence during the  
5       statement period between the person and any  
6       legislator, the name of the parties to the contract, a  
7       description of the contract, and the amount of any  
8       money exchanged pursuant to the contract during the  
9       statement period; and

10       (8) For each event attended by members of the legislature  
11       that costs an average of \$25 or more per person or a  
12       total of \$500 including the cost of gifts, a statement  
13       describing the event, including the date of the event,  
14       the cost of the event, and the names of members of the  
15       legislature who attended the event.

16       ~~[(d) The receipt or expenditure of any money for the~~  
17       ~~purpose of influencing the election or defeat of any candidate~~  
18       ~~for an elective office or for the passage or defeat of any~~  
19       ~~proposed measure at any special or general election is excluded~~  
20       ~~from the reporting requirement of this section.]"~~





1       SECTION 7. Section 97-4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3       "**§97-4 Manner of filing; electronic filing; public**  
4 **records.** (a) Beginning December 1, 2015, the state ethics  
5 commission shall accept from any person who submits a statement  
6 required by this chapter an electronic document in lieu of a  
7 paper document; provided that the statement shall be submitted  
8 in a form approved by the state ethics commission through the  
9 adoption of rules pursuant to chapter 91.

10       (b) All statements required by this chapter to be filed  
11 with the state ethics commission:

12       (1) Shall be deemed properly filed [~~when~~]:

13       (A) When delivered or deposited in an established  
14 post office within the prescribed time, duly  
15 stamped, registered, or certified, and directed  
16 to the state ethics commission; provided,  
17 however, in the event it is not received, a  
18 duplicate of the statement shall be promptly  
19 filed upon notice by the state ethics commission  
20 of its nonreceipt; [~~and~~] or



1           (B) In the case of an electronic record, when it is  
2           received by the state ethics commission; and

3           (2) Shall be preserved by the state ethics commission for  
4           a period of four years from the date of filing; and  
5           shall constitute part of the public records of the  
6           state ethics commission.

7           (c) Chapter 489E shall apply to all electronic documents  
8           submitted pursuant to this section.

9           (d) The commission may adopt rules pursuant to chapter 91  
10          to effectuate the purposes of this section."

11          SECTION 8. No later than September 1, 2016, the state  
12          ethics commission shall create written guidelines specifying the  
13          form of electronic documents to be submitted to the state ethics  
14          commission. These guidelines shall remain in effect until  
15          superseded by rules adopted by the state ethics commission to  
16          establish the form in which electronic statements filed pursuant  
17          to chapter 97, Hawaii Revised Statutes, shall be submitted to  
18          the commission; provided that the rules shall be adopted no  
19          later than July 1, 2017.

20          SECTION 9. Statutory material to be repealed is bracketed  
21          and stricken. New statutory material is underscored.



# S.B. NO. 648

1 SECTION 10. This Act shall take effect upon its approval.

2

INTRODUCED BY:





# S.B. NO. 648

**Report Title:**

Ethics; Disclosures; Lobbyists; Legislators; State Employees

**Description:**

Requires lobbyists and their clients to make monthly disclosures during any month the legislature is in session, and a report for June 1 through December 31. Adds required disclosures regarding lobbying events, contractual relationships with legislators, and campaign contributions. Requires the governor, lieutenant governor, and legislators to file their financial disclosures by January 31 after the beginning of the regular legislative session. Requires certain state employees to disclose contractual relationships with lobbyists and their clients. Amends the definition of "administrative action" to include granting or denying an application for a business- or development-related permit, license, or approval and the procurement of goods and services through contracts covered by the procurement code. Requires the state ethics commission to accept electronically filed documents.

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

