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# A BILL FOR AN ACT

RELATING TO THE STATE ETHICS COMMISSION.

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

1           SECTION 1. The purpose of this Act is to clarify and  
2 modernize the way the state ethics commission provides advice  
3 and conducts investigations pursuant to sections 84-31 and 97-6,  
4 Hawaii Revised Statutes.

5           SECTION 2. Section 84-31, Hawaii Revised Statutes, is  
6 amended by amending subsections (a) and (b) to read as follows:

7           "(a) The ethics commission shall have the following powers  
8 and duties:

9           (1) It shall prescribe forms for the disclosures required  
10 by article XIV of the Hawaii constitution and section  
11 84-17 and the gifts disclosure statements required by  
12 section 84-11.5 and shall establish orderly procedures  
13 for implementing the requirements of those provisions;

14           (2) It shall provide advice upon the request of any person  
15 as to whether the facts and circumstances of a  
16 particular situation constitute or will constitute a  
17 violation of the code of ethics or other laws or rules



1           administered and enforced by the commission, and  
2           discuss ways to avoid an appearance of impropriety. A  
3           person receiving advice from the commission may  
4           request a written summary of that advice. The  
5           commission shall treat all advice requests, responses,  
6           and related materials as confidential. Written  
7           summaries shall be confidential unless the recipient  
8           waives confidentiality;

9       [-(2)] (3) It shall render advisory opinions upon the  
10       request of any legislator, employee, or delegate to  
11       the constitutional convention, or person formerly  
12       holding such office or employment as to whether the  
13       facts and circumstances of a particular case  
14       constitute or will constitute a violation of the code  
15       of ethics. If no advisory opinion is rendered within  
16       [~~thirty~~] ninety days after the request is filed with  
17       the commission, it shall be deemed that an advisory  
18       opinion was rendered and that the facts and  
19       circumstances of that particular case do not  
20       constitute a violation of the code of ethics. The  
21       opinion rendered or deemed rendered, until amended or



1           revoked, shall be binding on the commission in any  
2           subsequent charges concerning the legislator,  
3           employee, or delegate to the constitutional  
4           convention, or person formerly holding such office or  
5           employment, who sought the opinion and acted in  
6           reliance on it in good faith, unless material facts  
7           were omitted or misstated by such persons in the  
8           request for an advisory opinion[+] The commission  
9           shall also render public general advisory opinions  
10           concerning proper interpretation of the code of ethics  
11           and other laws or rules administered and enforced by  
12           the commission, if it deems the opinion of sufficient  
13           general interest and importance;

14        (4) It may initiate an investigation into alleged,  
15           possible, or potential violations of this chapter and  
16           other laws or rules administered and enforced by the  
17           commission, on a confidential basis, having available  
18           all of the powers herein provided, whether the  
19           investigation is made based on a charge allegation,  
20           other information or indications, or as the commission  
21           determines is in the public interest;



1       ~~[(3)]~~ (5) It shall initiate, receive, and consider charges  
2                   and other information, on a confidential basis,  
3                   concerning alleged ~~[violation]~~, possible, or potential  
4                   violations of this chapter~~[-]~~ and other laws or rules  
5                   administered and enforced by the commission, initiate  
6                   or make investigation, and hold hearings;

7       ~~[(4)]~~ ~~It]~~ (6) Upon adoption of a resolution defining the  
8                   scope and nature of the inquiry, supported by a vote  
9                   of three or more members of the commission, the  
10                  commission may subpoena witnesses, administer oaths,  
11                  and take testimony relating to matters before the  
12                  commission and require the production for examination  
13                  of any books or papers relative to any matter under  
14                  investigation or in question before the commission~~[-~~  
15                  ~~Before the commission shall exercise any of the powers~~  
16                  ~~authorized in this section with respect to any~~  
17                  ~~investigation or hearings it shall by formal~~  
18                  ~~resolution, supported by a vote of three or more~~  
19                  ~~members of the commission, define the nature and scope~~  
20                  ~~of its inquiry];~~



1       ~~[(5)]~~ (7) It may, from time to time adopt, amend, and  
2            repeal any rules, not inconsistent with this chapter,  
3            that in the judgment of the commission seem  
4            appropriate for the carrying out of this chapter and  
5            for the efficient administration thereof, including  
6            every matter or thing required to be done or which may  
7            be done with the approval or consent or by order or  
8            under the direction or supervision of or as prescribed  
9            by the commission. The rules, when adopted as  
10          provided in chapter 91, shall have the force and  
11          effect of law;

12       ~~[(6)]~~ (8) It shall have jurisdiction for purposes of  
13            investigation and taking appropriate action on  
14            ~~[alleged]~~ possible violations of this chapter in all  
15            proceedings commenced within six years of ~~[an alleged]~~  
16            a possible violation of this chapter by a legislator  
17            or employee or former legislator or employee. A  
18            proceeding shall be deemed commenced by the filing of  
19            a charge with the commission or by the signing of a  
20            charge by three or more members of the commission.  
21            Nothing herein shall bar proceedings against a person



1           who by fraud or other device, prevents discovery of a  
2           violation of this chapter;

3       [~~(7)~~] (9) It shall distribute its publications without cost  
4           to the public and shall initiate and maintain programs  
5           with the purpose of educating the citizenry and all  
6           legislators, delegates to the constitutional  
7           convention, and employees on matters of ethics in  
8           government employment; and

9       [~~(8)~~] (10) It shall administer any code of ethics adopted  
10          by a state constitutional convention, subject to the  
11          procedural requirements of this part and any rules  
12          adopted thereunder.

13       (b) Charges concerning the violation of this chapter shall  
14       be in writing, signed by the person making the charge under  
15       oath, except that any charge initiated by the commission shall  
16       be signed by three or more members of the commission. The  
17       commission shall [~~notify in writing~~] issue written notice to  
18       every person against whom a charge is received and afford the  
19       person an opportunity to explain the conduct alleged to be in  
20       violation of the chapter. The commission may investigate, after  
21       compliance with this section, such charges and render an



1 informal advisory opinion to the alleged violator. The  
2 commission shall investigate all charges on a confidential  
3 basis, having available all the powers herein provided, and  
4 proceedings at this stage shall not be public. If the informal  
5 advisory opinion indicates a probable violation, the person  
6 charged shall request a formal opinion or within a reasonable  
7 time comply with the informal advisory opinion. If the person  
8 charged fails to comply with such informal advisory opinion or  
9 if a majority of the members of the commission determine that  
10 there is probable cause for belief that a violation of this  
11 chapter might have occurred, a copy of the charge and a further  
12 statement of the alleged violation shall be personally served  
13 upon the alleged violator. Service shall be made by personal  
14 service upon the alleged violator wherever found or by  
15 registered or certified mail with a request for a return receipt  
16 and marked deliver to addressee only. If after due diligence  
17 service cannot be effected successfully in accordance with the  
18 above, service may be made by publication if so ordered by the  
19 circuit court of the circuit wherein the alleged violator last  
20 resided. The state ethics commission shall submit to the  
21 circuit court for its consideration in issuing its order to



1 allow service by publication an affidavit setting forth facts  
2 based upon the personal knowledge of the affiant concerning the  
3 methods, means, and attempts made to locate and effect service  
4 by personal service or by registered or certified mail in  
5 accordance with the above. Service by publication when ordered  
6 by the court shall be made by publication once a week for four  
7 successive weeks of a notice in a newspaper of general  
8 circulation in the circuit of the alleged violator's last known  
9 state address. The alleged violator shall have twenty days  
10 after service thereof to respond in writing to the charge and  
11 statement."

12 SECTION 3. Section 97-6, Hawaii Revised Statutes, is  
13 amended by amending subsections (a) and (b) to read as follows:

14 "(a) The state ethics commission shall administer and  
15 implement this chapter, and shall have the following powers and  
16 duties:

17 (1) Initiate, receive, and consider charges and other  
18 information, on a confidential basis, concerning  
19 alleged, possible, or potential violations of this  
20 chapter[7] and other laws or rules administered and  
21 enforced by the commission, and investigate or cause



1 to be investigated on a confidential basis, the  
2 activities of any person to determine whether the  
3 person is in compliance with this chapter;

4 (2) Prescribe forms for the documentation, statements and  
5 reports required by sections 97-2 and 97-3 and  
6 establish orderly procedures for implementing the  
7 requirements of those provisions;

8 (3) Provide advice upon the request of any person as to  
9 whether the facts and circumstances of a particular  
10 situation constitute or will constitute a violation of  
11 this chapter or other laws or rules administered and  
12 enforced by the commission and discuss ways to avoid  
13 an appearance of impropriety. A person receiving  
14 advice from the commission may request a written  
15 summary of that advice. The commission shall treat  
16 all advice requests, responses, and related materials  
17 as confidential. Written summaries shall be  
18 confidential unless the recipient waives  
19 confidentiality;

20 [~~3~~] (4) Render advisory opinions upon the request of any  
21 person subject to this chapter. If no advisory



1 opinion is rendered within [~~thirty~~] ninety days after  
2 the request is filed with the commission, it shall be  
3 deemed that an advisory opinion was rendered and that  
4 the facts and circumstances of that particular case do  
5 not constitute a violation of this chapter. The  
6 opinion rendered or deemed rendered, until amended or  
7 revoked, shall be binding on the commission in any  
8 subsequent charges concerning the person subject to  
9 this chapter who sought the opinion and acted in  
10 reliance on it in good faith, unless material facts  
11 were omitted or misstated by the person in the request  
12 for an advisory opinion[+]. The commission shall also  
13 render public general advisory opinions concerning  
14 proper interpretations of the laws of this chapter and  
15 other laws or rules administered and enforced by the  
16 commission, if it deems the opinion of sufficient  
17 general interest and importance;

18 [~~4~~] (5) Issue subpoenas, administer oaths, and require  
19 the production for examination of any records or  
20 papers relative to any matter under investigation or



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1           in question before the commission, and exercise those  
2           powers conferred upon the commission by section 92-16;  
3       [-5-] (6) Adopt, amend, and repeal rules, not inconsistent  
4           with this chapter, as in the judgment of the  
5           commission seem appropriate for the carrying out of  
6           this chapter and for the efficient administration of  
7           this chapter, including every matter or thing required  
8           to be done or which may be done with the approval or  
9           consent or by order or under the direction or  
10          supervision of, or as prescribed by, the commission.  
11          The rules, when adopted as provided in chapter 91,  
12          shall have the force and effect of law; [and]  
13       [-6-] (7) Have jurisdiction for purposes of investigation  
14           and taking appropriate action on [alleged] possible  
15           violations of this chapter in all proceedings  
16           commenced within [~~three~~] six years of [~~an alleged~~] a  
17           possible violation of this chapter. A proceeding  
18           shall be deemed commenced by the filing of a charge  
19           with the commission or by the signing of a charge by  
20           three or more members of the commission. Nothing  
21           shall bar proceedings against a person who by fraud or



1 other device prevents discovery of a violation of this  
2 chapter[-]; and

3 (8) Distribute educational and advisory publications and  
4 initiate, administer, and maintain training programs  
5 for the purpose of training lobbyists on compliance  
6 with state lobbying laws and applicable parts of the  
7 code of ethics.

8 (b) Charges concerning the violation of this chapter shall  
9 be in writing, signed by the person making the charge under  
10 oath, except that any charge initiated by the commission shall  
11 be signed by three or more members of the commission. The  
12 commission shall [~~notify in writing~~] issue written notice to  
13 every person against whom a charge is received and afford the  
14 person an opportunity to explain the conduct alleged to be in  
15 violation of the chapter. The commission may investigate, after  
16 compliance with this section, such charges and render an  
17 informal advisory opinion to the alleged violator. The  
18 commission shall investigate all charges on a confidential  
19 basis, having available all the powers herein provided, and  
20 proceedings at this stage shall not be public. If the informal  
21 advisory opinion indicates a probable violation, the person



1 charged shall request a formal opinion or within a reasonable  
2 time comply with the informal advisory opinion. If the person  
3 charged fails to comply with such informal advisory opinion or  
4 if a majority of the members of the commission determine that  
5 there is probable cause for belief that a violation of this  
6 chapter might have occurred, a copy of the charge and a further  
7 statement of the alleged violation shall be personally served  
8 upon the alleged violator. Service shall be made by personal  
9 service upon the alleged violator wherever found or by  
10 registered or certified mail with request for a return receipt  
11 and marked deliver to addressee only. If after due diligence  
12 service cannot be effected successfully in accordance with the  
13 above, service may be made by publication if so ordered by the  
14 circuit court of the circuit wherein the alleged violator last  
15 resided. The commission shall submit to the circuit court for  
16 its consideration in issuing its order to allow service by  
17 publication an affidavit setting forth facts based upon the  
18 personal knowledge of the affiant concerning the methods, means,  
19 and attempts made to locate and effect service by personal  
20 service or by registered or certified mail in accordance with  
21 the above. Service by publication when ordered by the court



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1 shall be made by publication once a week for four successive  
2 weeks of a notice in a newspaper of general circulation in the  
3 circuit of the alleged violator's last known state address. The  
4 alleged violator shall have twenty days after service thereof to  
5 respond in writing to the charge and statement."

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

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

9

INTRODUCED BY:



By Request

JAN 18 2024



# H.B. NO. 1882

**Report Title:**

HSEC; State Ethics Commission Package; Advice; Investigations

**Description:**

Clarifies and modernizes the way the State Ethics Commission provides advice and conducts investigations pursuant to sections 84-31 and 97-6, Hawaii Revised Statutes.

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

