

## ACT 87

S.B. NO. 2280-80

A Bill for an Act Relating to the State Code of Ethics.

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

SECTION 1. Section 84-17, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(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, the chancellors, and the provosts of the University of Hawaii and its community colleges.
- (7) The superintendent, the deputy superintendent, the assistant superintendents, and the district superintendents 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.”

SECTION 2. Section 84-17, Hawaii Revised Statutes, is amended by amending subsection (g) to read as follows:

“(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; or \$150,000 or more. An amount of stock may be reported by number of shares.”

SECTION 3. Section 84-31, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) The ethics commission shall have the following powers and duties:

- (1) It shall prescribe forms for the disclosures required by Article XIV of the Hawaii Constitution and section 84-17 and the statements and reports required by sections 97-2 and 97-3 and shall establish orderly procedures for implementing the requirements of those provisions.
- (2) It shall render advisory opinions upon the request of any legislator, employee, or delegate to the constitutional convention, or person formerly holding such office or employment as to whether the facts and circumstances of a particular case constitute or will constitute a violation of the standards. It shall also render advisory opinions to persons subject to chapter 97. If no advisory opinion is rendered within thirty days after the request is filed with the commission, it shall be deemed that an advisory opinion was rendered and that the facts and circumstances of that particular case do not constitute a violation of the standards. The opinion rendered or deemed rendered, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the legislator, employee, or delegate to the constitutional convention, or person formerly holding such office or employment, or person subject to chapter 97 who sought the opinion and acted in reliance on it in good faith, unless material facts were omitted or misstated by such persons in the request for an advisory opinion.
- (3) It shall initiate, receive, and consider charges concerning alleged violation of this chapter, initiate or make investigation, and hold hearings.
- (4) It may subpoena witnesses, administer oaths, and take testimony relating to matters before the commission and require the production for examination of any books or papers relative to any matter under investigation or in question before the commission. Before the commission shall exercise any of the powers authorized herein with respect to any investigation or hearings it shall by formal resolution, supported by a vote of three or more members of the commission, define the nature and scope of its inquiry.
- (5) It may, from time to time make, amend, and repeal such rules and regula-

tions, not inconsistent with this chapter as in the judgment of the commission seem appropriate for the carrying out of this chapter and for the efficient administration thereof, including every matter or thing required to be done or which may be done with the approval or consent or by order or under the direction or supervision of or as prescribed by the commission. The rules and regulations, when adopted as provided in chapter 91, shall have the force and effect of law.

- (6) It shall have jurisdiction for purposes of investigation and taking appropriate action on alleged violations of this chapter in all proceedings commenced within one year after termination of state employment by a legislator or employee. Nothing herein shall bar proceedings against a person who by fraud or other device, prevents discovery of a violation of this chapter. A proceeding shall be deemed commenced by the signing of a charge by three or more members of the commission.
- (7) It shall distribute its publications without cost to the public and shall initiate and maintain programs with the purpose of educating the citizenry and all legislators, delegates to the constitutional convention, and employees on matters of ethics in government employment.
- (8) It shall administer any code of ethics adopted by a state constitutional convention, subject to the procedural requirements of this part and any rules adopted thereunder.
- (9) It shall perform the duties and fulfill the functions assigned to it by chapter 97, relating to registration of lobbyists.”

SECTION 4. Section 84-31, Hawaii Revised Statutes, is amended by amending subsection (e) to read as follows:

“(e) A decision of the commission pertaining to the conduct of any legislator, delegate to the constitutional convention, or employee or person formerly holding such office or employment, or person subject to chapter 97 shall be in writing and signed by three or more of the members of the commission.”

SECTION 5. Section 84-32, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 84-32 Procedure.** (a) With respect to legislators and employees removable only by impeachment: when the ethics commission after due hearings pursuant to section 84-31(d) determines that there is sufficient cause to file a complaint against a legislator or an employee removable only by impeachment, it shall issue a complaint and refer the matter to the appropriate body of the legislature. The complaint must contain a statement of the facts alleged to constitute the violation. If within thirty days after the referral, the legislature has not disposed of the complaint, the commission shall make the charges public. Days during which the legislature is not in session shall not be included in determining the thirty-day period.

(b) With respect to employees other than legislators and employees removable only by impeachment: when the commission after due hearing determines pursuant to section 84-31(d) that there is sufficient cause to file a complaint against an employee other than a legislator, or an employee removable only by impeachment, it shall refer the decision to the governor who shall take appropriate action within sixty days and

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shall notify the commission of the action taken.

If it is found that a violation has occurred, the governor or the ethics commission by a vote of four members may make the findings and the record of the proceeding public, taking into account the seriousness of the violation.

This subsection shall not prevent the commission from reporting decisions in the yearly summaries required by section 84-31(f).

(c) With respect to former employees: the commission may with the consent of four commissioners issue a public statement of its findings and conclusions, and the attorney general may exercise whatever legal or equitable remedies which may be available to the State.

(d) With respect to delegates to the constitutional convention removable only by impeachment: when the ethics commission after due hearing pursuant to section 84-31(d) determines that there is sufficient cause to file a complaint against a delegate to the constitutional convention, it shall issue a complaint and refer the matter to the appropriate body of the constitutional convention.

(e) With respect to persons subject to chapter 97: when the ethics commission after due hearing pursuant to section 84-31(d) determines that a violation of chapter 97 has occurred, it shall refer the matter to the office of the attorney general or the prosecuting attorney for the city and county of Honolulu each of which shall have concurrent jurisdiction. The fact of such referral for prosecution shall be made public by the ethics commission.”

SECTION 6. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 7. This Act shall take effect upon approval.

(Approved May 21, 1980.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.