

ACT 208

H.B. NO. 2175

A Bill for an Act Relating to Ethics.

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

SECTION 1. The legislature finds that the public interest is disserved when experts or persons who possess special knowledge or expertise necessary to the State decline to serve or are prevented from serving as members of task forces convened solely for the purpose of sharing knowledge or experience, making recommendations, or commenting on proposed courses of action, because legislation that may result from the advice or comments they provide or the recommendations they may make are related to matters to which they have a professional or financial connection.

The purpose of this Act is to allow persons with knowledge and expertise necessary to the State to serve as members of a task force that is convened on a temporary basis by the legislative or executive branch to study an issue, make recommendations, or offer advice on a specific subject, by excepting them from some of the requirements, restrictions, and prohibitions of the State's code of ethics. This Act also provides further clarity by adding a definition of "task force" to chapter 84, Hawaii Revised Statutes.

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

“Task force” means a group convened by resolution, statute, executive order, proclamation, or by invitation of the legislature, governor, or another state officer, to study a specific subject or issue, for a specific defined period of time, and to report to, offer a recommendation to, or advise the legislature, governor, or a state officer.”

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

“§84-12 Confidential information. No legislator or employee shall disclose information which by law or practice is not available to the public and which the legislator or employee acquires in the course of the legislator’s or employee’s official duties, or use the information for the legislator’s or employee’s personal gain or for the benefit of anyone[-]; provided that this section shall not preclude a person who serves as the designee or representative of an entity that is a member of a task force from disclosing information to the entity which the person acquires as the entity’s designee or representative.”

SECTION 4. Section 84-13, Hawaii Revised Statutes, is amended to read as follows:

“§84-13 Fair treatment. No legislator or employee shall use or attempt to use the legislator’s or employee’s official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others; including but not limited to the following:

- (1) Seeking other employment or contract for services for oneself by the use or attempted use of the legislator’s or employee’s office or position.
- (2) Accepting, receiving, or soliciting compensation or other consideration for the performance of the legislator’s or employee’s official duties or responsibilities except as provided by law.
- (3) Using state time, equipment or other facilities for private business purposes.
- (4) Soliciting, selling, or otherwise engaging in a substantial financial transaction with a subordinate or a person or business whom the legislator or employee inspects or supervises in the legislator’s or employee’s official capacity.

Nothing herein shall be construed to prohibit a legislator from introducing bills and resolutions, or to prevent a person from serving on a task force or from serving on [committees] a task force committee, or from making statements or taking official action [in the exercise of the legislator’s legislative functions.] as a legislator, or a task force member or a task force member’s designee or representative. Every legislator, or task force member or designee or representative of a task force member shall file a full and complete public disclosure of the nature and extent of the interest or transaction which the legislator or task force member or task force member’s designee or representative believes may be affected by [legislative action-] the legislator’s or task force member’s official action.”

SECTION 5. Section 84-14, Hawaii Revised Statutes, is amended to read as follows:

“§84-14 Conflicts of interests. (a) No employee shall take any official action directly affecting:

- (1) A business or other undertaking in which ~~[he]~~ the employee has a substantial financial interest; or
- (2) A private undertaking in which ~~[he]~~ the employee is engaged as legal counsel, advisor, consultant, representative, or other agency capacity.

A department head who is unable to disqualify ~~[himself]~~ the department head's self on any matter described in ~~[items]~~ paragraphs (1) and (2) ~~[above]~~ will not be in violation of this subsection if ~~[he]~~ the department head has complied with the disclosure requirements of section 84-17~~;~~ and.

A person whose position on a board, commission, or committee is mandated by statute, resolution, or executive order to have particular qualifications shall only be prohibited from taking official action that directly and specifically affects a business or undertaking in which ~~[he]~~ the person has a substantial financial interest; provided that the substantial financial interest is related to the member's particular qualifications.

(b) No employee shall acquire financial interests in any business or other undertaking which ~~[he]~~ the employee has reason to believe may be directly involved in official action to be taken by ~~[him-]~~ the employee.

(c) No legislator or employee shall assist any person or business or act in a representative capacity before any state or county agency for a contingent compensation in any transaction involving the State.

(d) No legislator or employee shall assist any person or business or act in a representative capacity for a fee or other compensation to secure passage of a bill or to obtain a contract, claim, or other transaction or proposal in which ~~[he]~~ the legislator or employee has participated or will participate as a legislator or employee, nor shall ~~[he]~~ the legislator or employee assist any person or business or act in a representative capacity for a fee or other compensation on such bill, contract, claim, or other transaction or proposal before the legislature or agency of which ~~[he]~~ the legislator or employee is an employee or legislator.

(e) No employee shall assist any person or business or act in a representative capacity before a state or county agency for a fee or other consideration on any bill, contract, claim, or other transaction or proposal involving official action by the agency if ~~[he]~~ the employee has official authority over that state or county agency unless ~~[he]~~ the employee has complied with the disclosure requirements of section 84-17.

(f) Subsections (a), (b), and (d) shall not apply to a task force member or the designee or representative of that task force member whose service as a task force member would not otherwise cause that member, designee, or representative to be considered an employee, if the task force member or the designee or representative of that task force member complies with the disclosure requirements under section 84-17."

SECTION 6. Section 84-15, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) A state agency shall not enter into a contract with any person or business which is represented or assisted personally in the matter by a person who has been an employee of the agency within the preceding two years and who participated while in state office or employment in the matter with which the contract is directly concerned. This subsection shall not apply to any contract that is awarded in accordance with subsection (a) with a person or business represented or assisted by a person who was a member of a task force or served as the designee or representative of a task force member."

SECTION 7. Section 84-18, Hawaii Revised Statutes, is amended by amending subsection (c) to read as follows:

“(c) No former employee, within twelve months after termination of the former employee’s employment, shall represent any person or business for a fee or other consideration, on matters in which the former employee participated as an employee or on matters involving official action by the particular state agency or subdivision thereof with which the former employee had actually served. This section shall not apply to a former task force member who, but for service as a task force member, would not be considered an employee.”

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2012.

(Approved July 3, 2012.)