

HAWAII REVISED STATUTES
CHAPTER 97
LOBBYISTS

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

"Administrative action" means the proposal, drafting, consideration, amendment, enactment, or defeat by any administrative agency of any rule or other action governed by section 91-3.

"Administrative agency" means a commission, board, agency, or other body, or official in the state government that is not a part of the legislative or judicial branch.

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

"Expenditure" includes a payment, distribution, forgiveness of a loan, advance, deposit, or gift of money, or anything of value and includes a contract, promise, or agreement, whether or not enforceable, to make an expenditure. "Expenditure" also includes compensation or other consideration paid to a lobbyist for the performance of lobbying services. "Expenditure" excludes any amounts expended:

- (1) For intrastate travel costs, including incidental meals and lodging; provided that this exception does not apply to any amounts expended for travel costs of state legislators, board and commission members, or any other employees of the State; or
- (2) By a nonprofit organization to prepare and submit an application for a grant pursuant to chapter 42F, and for each of the nonprofit organization's employees to lobby a maximum of ten hours in a month for that application.

"Legislative action" means the sponsorship, drafting, introduction, consideration, modification, enactment, or defeat of any bill, resolution, amendment, report, nomination, appointment, or any other matter pending or proposed in the legislature.

"Lobbying" means communicating directly or through an agent, or soliciting others to communicate, with any official in the legislative or executive branch, for the purpose of attempting to influence legislative or administrative action or a ballot issue. "Lobbying" shall not include the preparation and submission of a grant application pursuant to chapter 42F by a representative of a nonprofit organization.

"Lobbyist" means any individual who:

- (1) Receives or expects to receive, either by employment or contract, \$1,000 or more in monetary or in-kind compensation in any calendar year for engaging in lobbying, either personally or through the lobbyist's agents; or
- (2) For pay or other consideration, on behalf of another person:
 - (A) Engages in lobbying in excess of five hours in any month of any reporting period described in section 97-3;
 - (B) Engages in lobbying in excess of ten hours during any calendar year; or
 - (C) Makes expenditures of \$1,000 or more of the person's or any other person's money lobbying during any reporting period described in section 97-3;

provided that an employee of a nonprofit organization who spends fewer than ten hours in any month lobbying on a grant application submitted pursuant to chapter 42F is not a lobbyist if the employee does not engage in lobbying on matters that are unrelated to the grant application.

"Person" means a corporation, individual, union, association, firm, sole proprietorship, partnership, committee, club, or any other organization or a representative of a group of persons acting in concert.

§ 97-2 Registration of lobbyists, requirements. (a) Every lobbyist shall file a registration form with the state ethics commission within five days of becoming a lobbyist.

(b) Each lobbyist shall provide and certify the following information:

(1) The name, mailing address, and business telephone number of the lobbyist.

(2) The name and principal place of business of each person by whom the lobbyist is retained or employed or on whose behalf the lobbyist appears or works and a written authorization to act as a lobbyist from each person by whom the lobbyist is employed or with whom the lobbyist contracts.

(3) The subject areas on which the lobbyist expects to lobby.

(c) A lobbyist shall report any change in any of the information contained in the registration statement within ten days after the change has occurred.

(d) A lobbyist shall file a notice of termination within ten days after the lobbyist ceases the activity that required the lobbyist's registration. If a lobbyist fails to file a notice of termination, the person who employed or contracted for the services of the lobbyist may file the notice. The lobbyist and the person who employed or contracted for the services of the lobbyist shall remain subject, however, to the requirements of this chapter for the period during which the registration was effective.

(e) This chapter shall not apply to:

(1) Any individual who represents oneself and not any other person before the legislature or administrative agency; provided that the individual shall file a statement of expenditures if the individual meets any of the provisions of section 97-3(a);

(2) Any federal, state, or county official or employee acting in the official's or employee's official capacity, unless the federal, state or county official, or employee contracts for the services of a lobbyist;

(3) Any elected public official acting in the public official's official capacity, unless the public official contracts for the services of a lobbyist;

(4) Any newspaper or other regularly published periodical or radio or television station, including any individual who owns, publishes, or is employed by a newspaper or periodical or radio or television station, while publishing in the regular course of business news items, editorials, or other comments, or paid advertisements, which directly or indirectly urge the passage or defeat of legislative or administrative action;

(5) Any attorney who advises the attorney's clients on the construction or effect of proposed legislative or administrative action; provided that such attorney shall register if the attorney meets the definition of "lobbyist" as defined in 97-1; and

(6) Any person who possesses special skills and knowledge relevant to certain areas of legislation, whose skills and knowledge may be helpful to the legislative and executive branches of state government, and who makes an occasional appearance at the request of the legislature or an administrative agency, or the lobbyist even though receiving reimbursement or other payment from the legislature or administrative agency or the lobbyist for the appearance.

§97-2.5 Renewal of registration. Each registered lobbyist shall renew the lobbyist's registration biennially by filing a registration and authorization form with the state ethics commission within ten days of the opening of the 1983 regular session of the legislature and on every odd-numbered year's session thereafter.

§ 97-3 Contributions and expenditures; statement. (a) The following persons shall file a statement of expenditures with the state ethics commission on March 31, May 31, and January 31 of each year and within thirty days after adjournment sine die of any special session of the legislature:

- (1) Each lobbyist;
- (2) Each person who makes expenditures of \$1,000 or more of the person's or any other person's money in any reporting period described in this section for the purpose of lobbying; 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:

- (1) Cover the period from May 1 through adjournment sine die of that special session;
- (2) Be filed only by persons listed in subsection (a) who engage in lobbying activities, or who make expenditures for the purpose of attempting to influence legislative action considered during a special session; and
- (3) Apply to and include only those expenditures and contributions that relate to legislative action considered during that special session;

provided that those expenditures and contributions included in the report need not be included by the person filing the report in any subsequent statement of expenditures.

- (c) The statement shall contain the following information:
 - (1) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the total sum of \$25 or more per day was made by the person filing the statement during the statement period and the amount or value of the expenditure;
 - (2) The name and address of each person with respect to whom expenditures for the purpose of lobbying in the aggregate of \$150 or more was made by the person filing the statement during the statement period and the amount or value of the expenditures;
 - (3) The total sum or value of all expenditures for the purpose of lobbying made by the person filing the statement during the statement period; provided that the sum or value of each expenditure is itemized in the following categories, as applicable:
 - (A) Preparation and distribution of lobbying materials;
 - (B) Media advertising;
 - (C) Compensation paid to lobbyists;

- (D) Fees paid to consultants for services;
 - (E) Entertainment and events;
 - (F) Receptions, meals, food, and beverages;
 - (G) Gifts;
 - (H) Loans;
 - (I) Interstate transportation, including incidental meals and lodging; and
 - (J) Other disbursements;
- (4) The name and address of each person making contributions to the person filing the statement for the purpose of lobbying in the total sum of \$25 or more during the statement period and the amount or value of the contributions; and
 - (5) The subject area of the legislative and administrative action that was supported or opposed by the person filing the statement during the statement period.
- (d) The receipt or expenditure of any money for the purpose of influencing the election or defeat of any candidate for an elective office or for the passage or defeat of any proposed measure at any special or general election is excluded from the reporting requirement of this section.

§97-4 Manner of filing; public records. All statements required by this chapter to be filed with the state ethics commission:

- (1) Shall be deemed properly filed when delivered or deposited in an established post office within the prescribed time; duly stamped, registered, or certified; and directed to the state ethics commission; provided that in the event it is not received, a duplicate of the statement shall be promptly filed upon notice by the state ethics commission of its nonreceipt; and
- (2) Shall be maintained by the state ethics commission for a period of six years from the date of filing; and shall constitute part of the public records of the state ethics commission.

§97-4.5 Lobbyist list. All lobbyist registration statements shall be posted on the state ethics commission's website within a reasonable time after filing, and may be removed from the website after four years.

§97-5 Restricted activities. No lobbyist shall accept or agree to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action.

§ 97-6 Administration. (a) The state ethics commission shall administer and implement this chapter, and shall have the following powers and duties:

- (1) Initiate, receive, and consider charges concerning alleged violations of this chapter, and investigate or cause to be investigated on a confidential basis, the activities of any person to determine whether the person is in compliance with this chapter;
- (2) Prescribe forms for the statements and reports required by sections 97-2 and 97-3 and establish orderly procedures for implementing the requirements of those provisions;

- (3) Render advisory opinions upon the request of any person subject to this chapter. 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 this chapter. The opinion rendered or deemed rendered, until amended or revoked, shall be binding on the commission in any subsequent charges concerning the person subject to this chapter who sought the opinion and acted in reliance on it in good faith, unless material facts were omitted or misstated by the person in the request for an advisory opinion;
- (4) Issue subpoenas, administer oaths, and exercise those powers conferred upon the commission by section 92-16;
- (5) Adopt rules, 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 of this chapter, 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, when adopted as provided in chapter 91, shall have the force and effect of law; and
- (6) Have jurisdiction for purposes of investigation and taking appropriate action on alleged violations of this chapter in all proceedings commenced within three years of an alleged violation of this chapter. A proceeding shall be deemed commenced by the filing of a charge with the commission or by the signing of a charge by three or more members of the commission. Nothing shall bar proceedings against a person who by fraud or other device prevents discovery of a violation of this chapter.

(b) Charges concerning the violation of this chapter shall be in writing, signed by the person making the charge under oath, except that any charge initiated by the commission shall be signed by three or more members of the commission. The commission shall notify in writing every person against whom a charge is received and afford the person an opportunity to explain the conduct alleged to be in violation of the chapter. The commission may investigate, after compliance with this section, such charges and render an informal advisory opinion to the alleged violator. The commission shall investigate all charges on a confidential basis, having available all the powers herein provided, and proceedings at this stage shall not be public. If the informal advisory opinion indicates a probable violation, the person charged shall request a formal opinion or within a reasonable time comply with the informal advisory opinion. If the person charged fails to comply with such informal advisory opinion or if a majority of the members of the commission determine that there is probable cause for belief that a violation of this chapter might have occurred, a copy of the charge and a further statement of the alleged violation shall be personally served upon the alleged violator. Service shall be made by personal service upon the alleged violator wherever found or by registered or certified mail with request for a return receipt and marked deliver to addressee only. If after due diligence service cannot be effected successfully in accordance with the above, service may be made by publication if so ordered by the circuit court of the circuit wherein the alleged violator last resided. The commission shall submit to the circuit court for its consideration in issuing its order to allow service by publication an affidavit setting forth facts based upon the personal knowledge of the affiant concerning the methods, means, and attempts made to locate and effect service by

personal service or by registered or certified mail in accordance with the above. Service by publication when ordered by the court shall be made by publication once a week for four successive weeks of a notice in a newspaper of general circulation in the circuit of the alleged violator's last known state address. The alleged violator shall have twenty days after service thereof to respond in writing to the charge and statement.

(c) If after twenty days following service of the charge and further statement of alleged violation in accordance with this section, a majority of the members of the commission conclude that there is probable cause to believe that a violation of this chapter has been committed, then the commission shall set a time and place for a hearing, giving notice to the complainant and the alleged violator in the same manner as provided in subsection (b). Upon the commission's issuance of a notice of hearing, the charge and further statement of alleged violation and the alleged violator's written response thereto shall become public records. The hearing shall be held within ninety days of the commission's issuance of a notice of hearing. If the hearing is not held within that ninety-day period, the charge and further statement of alleged violation shall be dismissed; provided that any delay that is at the request of, or caused by, the alleged violator shall not be counted against the ninety-day period. All parties shall have an opportunity to:

- (1) Be heard;
- (2) Subpoena witnesses and require the production of any books or papers relative to the proceedings;
- (3) Be represented by counsel; and
- (4) Have the right of cross-examination.

All hearings shall be in accordance with chapter 91. All witnesses shall testify under oath and the hearings shall be open to the public. The commission shall not be bound by the strict rules of evidence but the commission's findings shall be based on competent and substantial evidence. All testimony and other evidence taken at the hearing shall be recorded. All fees collected under this chapter shall be deposited into the general fund.

(d) A decision of the commission pertaining to the conduct of any person subject to this chapter shall be in writing and signed by three or more of the members of the commission. A decision of the commission rendered after a hearing together with findings and the record of the proceeding shall be a public record.

(e) A person who files a frivolous charge with the commission against any person covered by this chapter shall be civilly liable to the person charged for all costs incurred in defending the charge, including but not limited to costs and attorneys' fees. In any case where the commission does not issue a decision or final conclusion in which the commission concludes that a person has violated this chapter, the commission shall, upon the written request of the person charged, make a finding as to whether or not the charge was frivolous. The person charged may initiate an action in the circuit court for recovery of fees and costs incurred in commission proceedings within one year after the commission renders a decision that the charge was frivolous. The commission's decision shall be binding upon the court for purposes of a finding pursuant to section 607-14.5.

(f) The commission shall cause to be published yearly summaries of decisions, advisory opinions, and informal advisory opinions. The commission shall make sufficient deletions in the summaries to prevent disclosing the identity of persons involved in the decisions or opinions where the identity of such persons is not otherwise a matter of public record under this chapter.

§ 97-7 Penalties; administrative fines. (a) Any person who:

- (1) Negligently fails to file any statement or report required by this chapter;
- (2) Negligently files a statement or report containing false information or material omission of any fact;
- (3) Engages in activities prohibited by section 97-5; or
- (4) Fails to provide information required by section 97-2 or 97-3;

shall be subject to an administrative fine imposed by the state ethics commission that shall not exceed \$1,000 for each violation of this chapter. All fines collected under this section shall be deposited into the general fund.

(b) No fine shall be assessed unless the state ethics commission:

- (1) Convenes a hearing in accordance with section 97-6(c) and chapter 91 and renders a decision; or
- (2) Together with the alleged violator, agrees to resolve any alleged violation before the completion of the contested case process; provided that the resolution includes payment of an administrative fine or restitution, or both.

[This revision of the lobbying law is unofficial and for convenience only. Consult Hawaii Revised Statutes for the official codification of this law.]

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