



HAWAII STATE ETHICS COMMISSION

LOBBYING REGISTRATION AND REPORTING MANUAL

CHAPTER 97, HAWAII REVISED STATUTES

LOBBYING REGISTRATION AND REPORTING MANUAL FOR THE LOBBYISTS LAW, CHAPTER 97, HAWAII REVISED STATUTES

WHAT IS LOBBYING?

Chapter 97, Hawaii Revised Statutes ("HRS"), is entitled the "Lobbyists" law, and sets forth provisions governing (1) lobbying on matters before the state Legislature and (2) lobbying with respect to rules under consideration by administrative agencies. The Hawaii State Ethics Commission is charged with the responsibility of administering and enforcing the Lobbyists law. Chapter 97 defines "lobbying" as "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 any legislative or administrative action or a ballot issue." "Legislative action" is defined as 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. "Administrative action" is defined as the proposal, drafting, consideration, amendment, enactment, or defeat by any "administrative agency" of any rule, regulation, or other action governed by section 91-3, HRS. Section 91-3 describes procedures for the adoption, amendment, or repeal of administrative rules. An "administrative agency" is defined as a commission, board, agency, or other body, or official in the state government that is not a part of the legislative or judicial branch.

Chapter 97 requires that people who meet certain criteria must register as lobbyists with the Hawaii State Ethics Commission and/or must report their lobbying expenditures, as well as contributions received for the purpose of lobbying, by filing reports with the Hawaii State Ethics Commission.

I. THE LOBBYIST REGISTRATION REQUIREMENT

A. WHO MUST REGISTER AS A LOBBYIST?

An individual must register as a lobbyist if the individual is paid or otherwise receives consideration or compensation for his or her lobbying services, whether by fee, retainer, or salary (or portion thereof), AND also meets either of the following two criteria:

(1) Spends more than \$750 in any reporting period lobbying,

OR

(2) Spends more than 5 hours in any month of any reporting period lobbying.

If an individual lobbies but receives no compensation for the lobbying services rendered, the individual is not required to register as a lobbyist. If the individual is a salaried (or otherwise compensated) employee of an organization or business and is lobbying as part of the individual's employment, the individual is required to register as a lobbyist if the individual meets either one of the above two criteria. In the case of a business entity that has been retained to lobby (such as a law firm), each member, partner, officer, employee, or agent of the business entity who has been assigned to lobby would have to register as a lobbyist, assuming either one of the above two criteria is met.

B. LOBBYIST REGISTRATION PROCEDURES

1. Registration; Renewal of Registration

Any individual who meets the registration criteria for lobbyists must file a registration form with the Hawaii State Ethics Commission within five days of becoming a lobbyist. The lobbyist is required to file a separate registration form for every person, organization, or business that the lobbyist lobbies for or receives compensation (or other consideration) from, for the lobbying services rendered.

Registration of all lobbyists expires ten days after the opening of the legislative session of an odd-numbered year. Any lobbyist who wishes to continue as a lobbyist must re-register prior to the expiration of the previous registration. A lobbyist renews his or her registration by filing a registration and authorization form with the Hawaii State Ethics Commission. Because the Commission does not automatically mail out registration forms at the end of each registration period to registered lobbyists, any lobbyist who wishes to renew his or her registration should contact the Commission for a registration form.

Any changes in any of the information contained in the registration statement must be reported to the Hawaii State Ethics Commission within ten days after the change has occurred.

REMEMBER, if your address has changed, notify the Commission as soon as possible.

2. Termination of Lobbying Activities; Notice of Termination Requirement

A lobbyist who intends to cease lobbying activity may terminate his or her registration at any time, but must file with the Hawaii State Ethics Commission a signed statement indicating the intention to terminate any further activity as a lobbyist. The statement must be filed within ten working days after the lobbyist ceases the activity which required the registration. A lobbyist who terminates his or her registration is still responsible for the filing of any reports required for the period during which he or she was registered as a lobbyist. The person, organization, or business who has employed or retained the lobbyist is responsible for submitting any reports required for the period during which the person, organization or business employed or retained the lobbyist.

II. LOBBYING EXPENDITURES AND CONTRIBUTIONS REPORTING REQUIREMENT

A. WHO MUST REPORT EXPENDITURES AND CONTRIBUTIONS FOR LOBBYING?

The following are required to report expenditures and contributions for lobbying:

- (1) Each lobbyist.

- (2) 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.
- (3) Each person* who spends \$750 or more of the person's or any other person's money in any six-month period for the purpose of lobbying, provided that any amounts expended for travel costs, including incidental meals and lodging, shall not be included in the tallying of the \$750.

Expenditures and contributions are reported by filing a "statement of expenditures" form with the Hawaii State Ethics Commission.

***NOTE:** The term "person" includes 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.

B. WHAT IS AN EXPENDITURE?

Chapter 97 defines "expenditure" to include 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. **ALL EXPENDITURES MADE FOR A LOBBYING PURPOSE BY THE FILER MUST BE REPORTED.** "Expenditure" also includes compensation or other consideration paid to a lobbyist for the performance of lobbying services. Generally, "expenditure" includes, but is not limited to, the following categories:

- (1) Preparation and distribution of lobbying materials. This category includes all disbursements or expenditures for the preparation and distribution of any printed material, publication, film, slide, or recording or video tape, etc. Lobbying material means any material that is prepared or purchased by a filer for a lobbying purpose (media advertising is not included under this section, but under (2), below). Exempted from this category are expenditures for preparing written testimony and exhibits for a hearing before the legislature or an administrative agency.
- (2) Media advertising. This category includes the filer's disbursements or expenditures for newspaper and magazine advertising, and radio and television time purchased for a lobbying purpose, etc.
- (3) Telegraph, telephone, and other forms of telecommunication.
- (4) Postage.

- (5) **Compensation paid to lobbyists.** This category includes the pay, compensation, or other consideration paid to a lobbyist for lobbying services rendered. This category also includes the pro rata portion of a salary or other pay or compensation paid to a lobbyist for lobbying services rendered if the lobbyist is an employee of an organization or business and has been assigned to lobby by the organization or business as part of the employee's job responsibilities.

The person, organization, or business who employs or retains the lobbyist reports the pay or compensation made to the lobbyist on the person's expenditures statement. The lobbyist does not report compensation received for lobbying on the lobbyist's expenditures statement.

- (6) **Fees (other than to lobbyists).** This category includes disbursements or expenditures for retainers, consulting fees, or other fees, pay, or compensation made for the purpose of lobbying, excluding compensation paid to registered lobbyists. Compensation paid to those who lobby but who are not registered lobbyists is reported here.
- (7) **Entertainment.** This category includes disbursements or expenditures for entertainment provided for a lobbying purpose. Entertainment includes, but is not limited to, sporting, theatrical, and musical events. Also included in this category is the cost of entertainment incurred for the filer himself or herself when in the company of others for a lobbying purpose.
- (8) **Food and beverages.** This category includes:
- (a) All disbursements or expenditures for food and beverages provided for a lobbying purpose. Also included are disbursements for food and beverages for the filer himself or herself when in the company of others for a lobbying purpose.
 - (b) All disbursements for food and beverages provided to public officials or public employees or their staff who are invited to meetings, conferences, conventions, banquets, legislative days, or other similar functions for a lobbying purpose.
 - (c) The cost of food and beverages provided by a filer, or employee or agent of the filer, at meetings or conferences for the purpose of urging others to communicate with public officials.
- (9) **Gifts.** All gifts made for the purpose of lobbying must be reported. A gift includes anything of value, including discounts, services, and gifts of travel, lodging, as well as meals related to travel or lodging.
- (10) **Loans.** All loans or forgiveness of loans made for lobbying purposes by the filer shall be reported.

- (11) **Other disbursements.** All other distributions, disbursements, and expenses incurred for the purpose of lobbying, if not otherwise reportable under categories (1) to (10). Under this category general overhead expenses for office space, equipment, and support personnel are included in the filer's report if the expenses are made for lobbying purposes. If overhead expenses are also incurred for other than lobbying purposes, only the pro rata portion of the expenses for lobbying purposes need be reported. Negligible overhead expenses need not be reported.

IMPORTANT: HRS chapter 84, the State Ethics Code, contains laws that govern the solicitation, acceptance and disclosure of gifts by state employees, legislators, and elected or appointed officials. HRS section 84-11 prohibits state employees, legislators and elected officials from accepting, receiving, or soliciting any gift if, under the circumstances, it is reasonable to infer that the gift is being given to influence the employee, legislator or official in the performance of his or her official duties or is intended as a reward for any official action. State employees, legislators, and elected or appointed officials may be disciplined for accepting, receiving, or soliciting improper gifts.

HRS section 84-11.5 requires state employees, legislators, and appointed or elected officials to disclose gifts if certain criteria are met. State employees, legislators, and officials must file a public gifts disclosure statement with the Hawaii State Ethics Commission if they, their spouse, or their dependent children receive (between June 1 of one year to June 1 of the next) directly or indirectly from one source any gift or gifts valued singly or in the aggregate in excess of \$200 and the source of the gift or gifts has interests that may be affected by official action or lack of action by the employee, legislator, or official. Certain gifts are exempted from the gift disclosure requirement. State employees, legislators, and officials may be disciplined for failing to file a gifts disclosure report or for filing an inaccurate report.

HRS section 84-13 prohibits state employees, legislators, and officials from using their state positions to grant themselves or anyone else unwarranted advantages, treatment, or benefits. A subsection of this provision, section 84-13(2), prohibits a state employee, legislator, or official from accepting, soliciting, or receiving compensation or other consideration for the performance of official duties and responsibilities except as provided by law. State employees, legislators, and officials may be disciplined for violating these provisions. Refer to the flyer, Gifts and the State Ethics Code for further information.

C. WHAT IS A CONTRIBUTION?

A contribution is defined in HRS §97-1 as a gift, subscription, forgiveness of a loan, advance, or deposit of money, or anything of value, and also includes a contract, promise, or agreement, whether or not enforceable, to make a contribution.

The filer reports the source of contributions given to the filer for the purpose of lobbying by reporting the name and address of each person, organization, or business from whom contributions in the total sum of \$25 or more have been received during the reporting period. The amount or value of the contribution is also reported.

D. FILING DATE FOR "STATEMENT OF EXPENDITURES" REPORT

A statement of expenditures report (to be filed with the Hawaii State Ethics Commission) is due on January 31, March 31 and May 31 of each year. The January 31 report covers the period from May 1 through December 31 of the preceding calendar year. The March 31 report covers the period from January 1 through the last day of February of the year of the report. The May 31 report covers the period from March 1 through April 30 of the year of the report.

E. EXEMPTION FOR CAMPAIGN OR ELECTION CONTRIBUTIONS AND EXPENDITURES

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 requirements of the Lobbyists law.

F. REPORTING BY THE LOBBYIST AND BY THE PERSON WHO EMPLOYS OR RETAINS THE LOBBYIST

The lobbyist includes on his or her expenditures statement only those expenses that the lobbyist made for the purpose of lobbying that are not reimbursed by the entity the lobbyist lobbies for. Similarly, the lobbyist need not report contributions if reported by the entity the lobbyist lobbies for.

The person or entity who employed or retained the lobbyist reports those expenses that were made by the person or entity for the purpose of lobbying. The person or entity paying a lobbyist also reports on their form contributions they receive for a lobbying purpose.

III. EXEMPTIONS FROM REGISTRATION AND REPORTING REQUIREMENTS

The requirements of registering as a lobbyist and/or submitting an expenditures statement do not apply to the following persons under the following circumstances:

- (1) An individual who represents himself or herself and not any other person, organization, or business before the legislature or an administrative agency does not have to register as a lobbyist. However, the individual must file a "statement of expenditures" if the individual meets any of the criteria listed under "Who Must Report Expenditures and Contributions for Lobbying."
- (2) Any federal, state, or county official or employee acting in an 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 an 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 that directly or indirectly urge the passage or defeat of legislative or administrative action.
- (5) Any attorney who advises a client on the construction, meaning, or effect of proposed legislative or administrative action, unless the attorney otherwise meets the criteria under "Who Must Register" or "Who Must Report Expenditures and Contributions."
- (6) Any person with special skills or knowledge who makes an occasional appearance at the request of the legislature or an administrative agency or lobbyist.

IV. RESTRICTED ACTIVITIES

Lobbyists are prohibited under the Lobbyists law from accepting or agreeing to accept any payment in any way contingent upon the defeat, enactment, or outcome of any proposed legislative or administrative action.

V. FORMS AND FILING

A. OBTAINING FORMS

Forms may be obtained at the Hawaii State Ethics Commission's offices or may be obtained at our website at www.hawaii.gov/ethics. Expenditures statements are mailed by the Hawaii State Ethics Commission before the end of a reporting period to all registered lobbyists and to persons, organizations, or businesses who compensate or retain the registered lobbyists for their lobbying services. Expenditures statements are also mailed to business entities that have been retained to lobby.

Persons or entities who spend \$750 or more in a six-month period for lobbying purposes are also required to file expenditures statements, even if they do not pay or employ a registered lobbyist. These persons or entities may obtain expenditures statement forms by contacting the Hawaii State Ethics Commission or visiting its website.

Unlike the expenditures statements, lobbyist registration forms are not mailed out periodically. Registration forms may also be obtained by contacting the Hawaii State Ethics Commission or visiting its website.

B. FILING PROCEDURES

All statements and reports required to be filed under chapter 97, HRS, may be mailed to the office of the Hawaii State Ethics Commission in a stamped envelope by regular or registered or certified mail. The statements and reports are considered filed by

the deadline if hand-delivered or post-marked by the due date. If the papers are not received by the Commission by the due date, the Commission shall notify the filer. The filer shall then promptly file a duplicate statement with the Commission.

C. PUBLIC RECORDS

The registration and expenditures statements constitute part of the public records of the Hawaii State Ethics Commission and are available for public inspection and duplication.

D. LOBBYIST LIST

The Hawaii State Ethics Commission is required to publish a list of registered lobbyists and the names of the persons or entities the lobbyists represent. In accordance with the law, the list does not include the addresses of the lobbyists.

VI. ADVISORY OPINIONS

The Hawaii State Ethics Commission has the power and duty to render advisory opinions at the request of any person subject to the Lobbyists law.

VII. INVESTIGATIONS AND PROSECUTIONS

The Hawaii State Ethics Commission has the power and duty to initiate, receive, and consider charges concerning alleged violations of the Lobbyists law. The Commission has the power and duty to investigate or cause to be investigated, on a confidential basis, the activities of any person to determine whether the person is in compliance with the Lobbyists law. The Commission may hold a hearing to determine whether or not there has been a violation of the Lobbyists law.

VIII. VIOLATIONS AND ADMINISTRATIVE FINES

Violations under the Lobbyists law include:

- 1) Wilfully failing to file any statement or report required by the Lobbyists law;
- 2) Wilfully filing a statement or report containing false information or a material omission of any fact;
- 3) Failing to provide information required by the Lobbyists law; and
- 4) Engaging in activities prohibited by the Lobbyists law.

After holding a contested case hearing, the Hawaii State Ethics Commission may assess an administrative fine that shall not exceed \$500 for each violation.