



HAWAII STATE ETHICS COMMISSION

State of Hawaii • Bishop Square, 1001 Bishop Street, ASB Tower 970 • Honolulu, Hawaii 96813

MEMORANDUM

DATE: July 27, 2001

TO: Legislators

FROM: Daniel J. Mollway
Executive Director and General Counsel

SUBJECT: Informational or Educational Trips Solicited or Accepted by Legislators

It has come to our attention that legislators may have solicited or accepted from lobbyists or organizations represented by lobbyists what has been described to us as informational or educational trips. Such trips are considered gifts of travel and raise issues under the State Ethics Code, Chapter 84, Hawaii Revised Statutes (HRS).

HRS section 84-11, the "gifts" law, prohibits a state official from soliciting or accepting a gift if it is reasonable to infer that the gift is given to influence or reward official action. In determining whether section 84-11 prohibits any particular gift, the State Ethics Commission reviews all relevant factors, including the value of the gift; what official action the state official has taken or may be taking that directly affects the donor of the gift; the extent to which the gift benefits the State or benefits the state official personally; and the circumstances under which the gift is given. If the donor of a gift of travel to a legislator is a lobbyist or an organization represented by a lobbyist, we believe it may be reasonable to infer that the gift is being given to influence or reward official action on the part of the legislator, particularly if the donor has recently lobbied, is currently lobbying, or will be lobbying the Legislature in the near future.

HRS section 84-13, the "Fair Treatment" law, prohibits a state official from using or attempting to use his or her official position to obtain unwarranted privileges or advantages for anyone or himself or herself. A legislator's solicitation of a gift of travel from a lobbyist or an organization represented by a lobbyist raises issues under section 84-13 as to whether the legislator is using or attempting to use his or her official position in an unfair manner to secure unwarranted benefits for himself, herself, or others; and whether there is an element of coercion, either direct or indirect, in the solicitation.

For the foregoing reasons, legislators who are considering soliciting or accepting informational or educational trips from lobbyists or organizations represented by lobbyists should contact our office for advice as to whether the solicitation or acceptance would be prohibited under the State Ethics Code.

In some instances, depending upon the particular facts and circumstances, our office may determine that the solicitation or acceptance of an informational or educational trip from a lobbyist or an organization represented by a lobbyist would not be prohibited under the State Ethics Code. In those situations, HRS section 84-11.5, the "gifts reporting" law, would become relevant. This law will require the legislator who receives the gift to report it to the State Ethics Commission on a "gifts disclosure statement" if three criteria are met: (1) the legislator (or legislator's spouse or dependent child) receives directly or indirectly from one source any gift or gifts in any form valued singly or in the aggregate in excess of \$200; (2) the source of the gift has interests that may be affected by official action on the part of the legislator; and (3) the gift is not otherwise exempted from reporting requirements. The gifts disclosure statement is due on June 30 of each year, and covers the period from June 1 of the preceding calendar year to June 1 of the year of the report.

If a gift of travel in the form of an informational or educational trip meets the criteria for disclosure, it must be disclosed in accordance with the law. However, merely disclosing a gift does not mean that the gift is permissible under the State Ethics Code. Therefore, we recommend that legislators contact our office for advice as to whether the trip may be solicited or accepted in the first place.

Should you have any questions regarding the above, please contact our office at 587-0460.