



HAWAII STATE ETHICS COMMISSION

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

SENATE COMMITTEE ON JUDICIARY AND LABOR
The Honorable Gilbert S.C. Keith-Agaran, Chair
The Honorable Maile S.L. Shimabukuro, Vice Chair

S.B. No. 653, Relating to Lobbyists

Hearing: Thursday, February 25, 2016, 9:00 a.m.

The Hawaii State Ethics Commission (“Commission”) has **no position on the intent** of S.B. No. 653, which expands the definition of “administrative action” in the State Lobbyists Law, chapter 97, HRS, to include: (1) the granting or denying by an administrative agency of an application for a business or development-related permit, license or approval as required by state law; and (2) the procurement of goods and services through contracts covered by the Hawaii Public Procurement Code, and also amends the definition of “administrative agency” in the State Lobbyists Law to expressly state that the definition includes the executive branch. **The Commission, however, has concerns about the bill’s language** for the reasons stated below.

S.B. No. 653 amends HRS section 97-1(1) by expanding the definition of “administrative action” to include, “[t]he granting or denying by an administrative agency of an application for a business or development-related permit, license, or approval as required by state law.” The Commission believes that the proposed language is very broad and would greatly expand the scope of the types of actions that would constitute “lobbying”¹ under the State Lobbyists Law. For example, there are numerous State agencies that grant or deny applications for business or development-related “permits,” such as:

- The Office of Conservation and Coastal Lands of the Department of Land and Natural Resources (“DLNR”) reviews Conservation District Use Applications for DLNR permits and Board of Land and Natural Resources permits;
- The Department of Health reviews applications for various types of permits and variances, including but not limited to food establishments, noise, and asbestos-related activities;
- The Department of Transportation reviews applications for permits for a variety of functions involving lands under its jurisdiction; and
- The Public Utilities Commission reviews applications for various types of permits, including but not limited to permits for transporting passengers for

¹ HRS section 97-1(7) 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 legislative or administrative action or a ballot issue.”

compensation, by motor vehicle, over any public highway of the State.

There are also numerous State agencies that grant or deny applications for business or development-related “licenses,” such as:

- The Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs (“DCCA”) licenses 49 different professions and vocations; and
- The Department of Agriculture reviews applications for various types of licenses such as licenses for dealers who sell or handle Hawaii-grown agricultural products obtained or purchased directly from a farmer or producer.

There are also numerous State agencies that grant or deny applications for other types of business or development-related “approvals,” such as:

- The Business Registration Division of the DCCA reviews business registration, amendment, correction and reservation forms; and
- The Department of Taxation reviews applications for exemptions from general excise taxes.

S.B. No. 653 also amends HRS section 97-1(1) by expanding the definition of “administrative action” to include, “[t]he procurement of goods and services through contracts covered by the Hawaii public procurement code.” The Commission believes that the proposed language is very broad and would greatly expand the scope of the types of actions that would constitute “lobbying” under the State Lobbyists Law. For example, the proposed language is not limited to the procurement of goods and services in excess of a certain value.

Currently, all registration statements and expenditure reports filed pursuant to the State Lobbyists Law are public records.² Moreover, all of the registration statements and expenditure reports are posted on the Commission’s website as soon as practicable and, generally, within 5 working days of receipt.

The Commission receives approximately 300 registration statements from lobbyists and approximately 1,700 expenditure reports annually. Lobbyists and organizations involved in lobbying activities must file expenditure reports on March 31, May 31, January 31, and if there is a special legislative session, 30 days after the special session is adjourned.³

The Commission notes that in order for expenditure reports that may be filed pursuant to the proposed amendments to the definition of “administrative action” to be

² HRS section 97-4(2).

³ HRS section 97-3(a).

meaningful, the lobbying reporting periods set forth in HRS section 97-3 may need to be amended.

The Commission also notes that processing a significant number of additional registration statements from lobbyists and expenditure reports from lobbyists and organizations would create a substantial administrative burden on the Commission's staff, and there is currently no appropriation in this bill to cover such costs.

We appreciate the opportunity to testify on S.B. No. 653, Relating to Lobbyists. We would like to thank this Committee for its consideration of our testimony.