



The HIGH ROAD

"Preserving public confidence in public servants."

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Hawaii State Ethics Commission

June 2001

2001 LEGISLATIVE SUMMARY

The Hawaii State Ethics Commission submitted several bills to the 2001 Legislature and advocated for the passage of these bills. Although some of the bills received favorable hearings, most, unfortunately, did not pass. One important piece of legislation did make it through, however, and was recently signed into law by Governor Cayetano.

S.B. No. 905, H.D. 1 (Act 146) - Relating to the Enforcement of the Lobbyist Law - became effective on May 24, 2001. This measure decriminalizes the Lobbyists Law, Chapter 97, HRS, and allows the Commission to enforce the law as a civil law, with fines of up to \$500 for each violation. Most significantly, the measure also increases the statute of limitations for violations of the Lobbyists Law from one year to three years. Previously, violations of the Lobbyists Law were petty misdemeanors with only a one year statute of limitations. The Commission strongly supported the passage of this measure because it will enhance the Commission's ability to administer and enforce the Lobbyists Law.

Other measures introduced at the Commission's request this year, but not passed by the Legislature, included the following:

Bill Relating to Conflicts of Interests. This bill would have expanded the conflicts-of-interests section of the State Ethics Code to prohibit state officials and employees from taking official action affecting a business in which their parents, siblings, emancipated children, and household members have financial interests. (S.B. No. 901, H.B. No. 1092)

Bill Relating to the Use of Washington Place for Campaign Activities. This bill would have prohibited the use of Washington Place for campaign events. (S.B. No. 902, H.B. No. 1093)

Bill Relating to the Salary of the Executive Director of the State Ethics Commission. This bill would have returned to the Commission the authority to

set the salary of its executive director. Currently, the executive director's salary is set by the Legislature in state statute. (S.B. No. 903, H.B. No. 1095)

Bill Relating to Governmental Employee Organization Meetings Held During State Working Hours. This bill would have prohibited government unions from using meetings held during state working hours for campaign activities unless the unions reimburse the State for the cost of employee salaries and benefits for any state time used. (S.B. No. 904, H.B. No. 1094)

Resolution Requesting a Study to Ascertain What Laws, Rules, or Other Measures May Be Put in Place to Address Possible Conflicts of Interests of the Members of the Legislature. This resolution asked the Legislature to undertake a study to ascertain what measures could be adopted to address the conflicts of interests of its members. (S.C.R. No. 5, H.C.R. No. 15)

GIFTS DISCLOSURE STATEMENTS DUE JULY 2, 2001

Are you required to file a gifts disclosure statement with the Hawaii State Ethics Commission this year? If so, July 2, 2001 is the filing deadline. Gifts received between June 1, 2000 and June 1, 2001 must be reported by this deadline.

State legislators, employees, and board and commission members who received gifts during this period must file a gifts disclosure statement with the Commission if they meet all of the following conditions:

1. The individual, or the individual's spouse or dependent child, received from one source (a) any gift greater than \$200, or (b) gifts whose combined value is greater than \$200; and
2. The source of the gift or gifts has interests that may be affected by official action by the individual; and

3. The gift(s) is not exempted by the ethics code from the reporting requirements. (HRS section 84-11.5)

State legislators, employees, and board and commission members who did not receive any reportable gifts during the reporting period are not required to file a gifts disclosure statement.

Additional information about the gifts disclosure law and disclosure forms and instructions can be found on our web site at www.state.hi.us/ethics or can be obtained by contacting the Commission's office at 587-0460.

It is also important to note that filing a gifts disclosure statement with the Commission does not make all gifts acceptable under the law. The State Ethics Code prohibits state officials and employees from accepting a gift if it can reasonably be inferred that the gift is intended to influence or reward official action. (HRS section 84-11) If you receive a gift from a person or business that is subject to your official action, you should contact the Commission for advice as to whether or not you may accept the gift.

COMMISSION PUBLISHES "ETHICS CHECKLIST" FOR STATE OFFICIALS AND EMPLOYEES

The Hawaii State Ethics Commission recently published an "Ethics Checklist" for state officials, employees, and board and commission members. The checklist summarizes the restrictions of the State Ethics Code, Chapter 84, HRS, and includes reminders about the acceptance and reporting of gifts; favoritism; the use of state resources for private business purposes; conflicts of interests; and other ethics restrictions. Copies of the Ethics Checklist have been distributed to all state agencies and departments.

Every state official and employee should be familiar with the Ethics Checklist. If you have not seen the Ethics Checklist, contact the Commission's office at 587-0460 for a free copy. The checklist also is accessible on our website at www.state.hi.us/ethics.

ETHICS QUIZ

Question: Does the ethics code prohibit the award of state contracts to state officials or employees, or to businesses owned by state officials or employees?

Answer: No, but certain restrictions may apply. HRS section 84-15(a), the Contracts section of the State Ethics Code, states that a state agency shall

not award a contract in excess of \$10,000 to a legislator, employee, or board or commission member, or to a business in which a legislator, employee, or board or commission member has a controlling interest, unless one of the following occurs:

- The contract is awarded by competitive sealed bid, or
- The contract is awarded by competitive sealed proposal, or
- The state agency posts a notice of its intent to award the contract and files a copy of the notice with the Hawaii State Ethics Commission at least 10 days before the contract is awarded.

The purpose of this law is to prevent the preferential award of state contracts to state officials or employees, or to businesses with ties to state officials or employees. Contract notices that are filed by state agencies with the Commission pursuant to HRS section 84-15(a) are public records.

Additional restrictions or prohibitions may apply if the official or employee who is receiving the contract, or whose business is receiving the contract, works for the state agency that is awarding the contract, or if the official or employee participated while in state office in the matter with which the contract is concerned.

State agencies should contact the Commission for additional advice and assistance regarding the award of contracts to state officials or employees, or businesses in which officials or employees have controlling interests. State officials or employees who plan to apply for state contracts likewise should contact the Commission for advice concerning the application of the State Ethics Code.

The High Road is a publication of the Hawaii State Ethics Commission.

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