SUNSHINE LAW MEETING

HAWAI‘I STATE ETHICS COMMISSION

State of Hawai‘i · Bishop Square, 1001 Bishop Street, ASB Tower 970 · Honolulu, Hawai‘i 96813

NOTICE OF MEETING OF THE
HAWAI‘I STATE ETHICS COMMISSION

Date: February 16, 2022

Time: 9:00 a.m.

Location: Via Videoconference or Phone:

Videoconference: Join Zoom Meeting
Phone: +1 (253) 215-8782 or +1 (346) 248-7799
Meeting ID: 817 6652 7560
Passcode: 886556

Due to COVID-19, this meeting will be held via videoconference and phone conference. All members of the public are invited to join this meeting using the above information; anyone wishing to testify may do so during the meeting or may submit written testimony in advance of the meeting via e-mail, fax, or mail. To avoid excessive noise/feedback, please mute your phone/device except to testify. If the Commission's videoconference connection is lost during the meeting, members of the public should check the Commission's website (www.ethics.hawaii.gov) for reconnection information.

In person:

Hawai‘i State Ethics Commission Conference Room
American Savings Bank Tower
1001 Bishop Street, Suite 960
Honolulu, Hawai‘i 96813

***Note: Commissioners and staff will appear remotely, via videoconference, and members of the public are encouraged to attend via videoconference or telephone. Staff will make every effort to accommodate members of the public who wish to testify in person at the Commission's Conference Room, but staff will limit the number of people allowed in the Conference Room at any given time. If you wish to attend in person, you must wear a mask and must remain more than six feet away from every other person in attendance.*

A G E N D A

CALL TO ORDER

I. Consideration and Approval of the Minutes of the January 19, 2022 Meeting

II. Consideration and Approval of the Minutes of the January 19, 2022 Executive Session Meeting

The Hawai‘i State Ethics Commission may convene an executive session pursuant to Hawai‘i Revised Statutes section 92-5(a)(4) to consult with the Commission’s
attorneys on questions and issues pertaining to the Commission’s powers, duties, privileges, immunities, and liabilities.

III. Consideration and Approval of the Minutes of the February 3, 2022 Meeting

IV. Executive Director’s Report

1. Education / Training Report

Attachment 1: 2022 Training Attendance / Schedule

Attachment 2: Online Training Completions by Department

2. Guidance and Assignment Statistics – January 2022

Attachment 3: 2022 Guidance and Assignment Statistics / Website Traffic

3. Miscellaneous Office Projects / Updates

V. 2022 Legislative Session

1. Status of Current Bills

Attachment 1: Status of Current Legislation

2. Discussion of Gift Law Updates/Revisions

Attachment 2: Gifts Law Presentation

Attachment 3: Quick Guide: Gifts to Legislators

Attachment 4: Legislator Gift Restrictions (from National Conference of State Legislatures)

Attachment 5: National Gift Law Summary

VI. *Akana v. Hawaii State Ethics Commission and Daniel Gluck*, Civil No. 18-1-1019-06 (JHA); *Akana v. Hawaii State Ethics Commission*, Civil No. 19-1-0379-03 (JHA); *State of Hawaii, Ethics Commission v. Rowena Akana*, Civil No. 20-1-0453 (BIA)

Discussion of case status.

The Hawai‘i State Ethics Commission may convene an executive session pursuant to Hawai‘i Revised Statutes section 92-5(a)(4) to consult with the Commission’s attorneys and/or the Department of the Attorney General on questions and issues pertaining to the Commission’s powers, duties, privileges, immunities, and liabilities.

VII. Adjournment

If you need an auxiliary aid/service or other accommodation due to a disability, please contact the Hawai‘i State Ethics Commission by telephone at (808) 587-0460, by facsimile at (808) 587-0470 (fax), or via email at ethics@hawaiiethics.org. Requests made as early as possible will allow adequate time to fulfill your request.

Upon request, this notice is available in alternate formats such as large print, Braille, or electronic copy.

Any interested person may submit data, views, or arguments in writing to the Commission on any agenda item. An individual or representative wishing to testify may notify any staff member of the Commission prior to the meeting or, during the meeting itself, may inform a Commissioner or Commission staff of a desire to testify. Testimony must be related to an item that is on the agenda, and the testifier shall identify the agenda item to be addressed by the testimony.

SUNSHINE LAW MEETING
AGENDA ITEM I

CONSIDERATION AND APPROVAL OF THE MINUTES OF THE JANUARY 19, 2022 MEETING

Attachment 1: Sunshine Law Meeting Minutes of the January 19, 2022 Hawai‘i State Ethics Commission Meeting

SUNSHINE LAW MEETING
MINUTES OF THE HAWAIʻI STATE ETHICS COMMISSION

STATE OF HAWAIʻI

Date: January 19, 2022

Time: 9:00 a.m.

Location: Held via Zoom video and audio conference

Present: State Ethics Commission Members

Melinda S. Wood, Chair (via video conference)
Wesley F. Fong, Vice Chair (via video conference)
Reynard D. Graulty, Commissioner (via video conference)
Harry J. McCarthy, Commissioner (via video conference)
Beverley Tobias, Commissioner (via video conference)

State Ethics Commission Staff

Robert D. Harris, Executive Director (via video conference)
Susan D. Yoza, Associate Director (via video conference)
Nancy C. Neuffer, Staff Attorney (via video conference)
Bonita Y.M. Chang, Staff Attorney (via video conference)
Kee M. Campbell, Staff Attorney (via video conference)
Patrick W.C. Lui, Computer Specialist (via audio conference)
Caroline Choi, Office Manager (via audio conference)

Sandy Ma, Common Cause Hawaiʻi (via video conference)

CALL TO ORDER

Chair Wood called the meeting to order at 9:01 a.m. and confirmed that all Commissioners and staff were present. Chair Wood announced that if the Commission's videoconference connection was lost during the meeting, the meeting would be recessed and reconvened after the connection was restored; members of the public were asked to check the Commission's website (www.ethics.hawaii.gov) for information about reconnecting to the meeting.

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Agenda Item No. I: Consideration and Approval of the Minutes of the December 15, 2021 Meeting

Vice Chair Fong made and Commissioner Graulty seconded a motion to approve the minutes of the December 15, 2021 meeting. The motion carried unanimously (Wood, Fong, Graulty, McCarthy, and Tobias voting).

Agenda Item No. II: Election of Officers for 2022

Chair Wood stated that her second term on the Commission, and Vice Chair Fong's first term on the Commission, will end in June. In light of this, Chair Wood asked whether the Commissioners wished to elect officers for 2022 at this meeting or keep the current officers in place and defer the election to June 2022.

Vice Chair Fong made a motion to re-elect Chair Wood as Commission Chair. There was no second to the motion and Vice Chair Fong later withdrew the motion.

Commissioner Graulty suggested that the Commission extend the terms of its current officers to June 30, and elect new officers in July. Further discussion followed as to whether the election of officers should be held in June or July.

Commissioner Graulty made and Vice Chair Fong seconded a motion to keep the Commission's current officers in place and defer the election of new officers to July 2022. The motion carried unanimously (Wood, Fong, Graulty, McCarthy, and Tobias voting).

Agenda Item No. III: Executive Director's Report

Chair Wood welcomed Robert Harris as the Commission's new Executive Director. Executive Director Harris thanked the Commission and said he recognized the importance of holding state officials to the highest standards of ethical conduct. Executive Director Harris said that during his first few months, he plans to speak to as many people as possible about the Commission's work to build upon the strong foundation that already exists. He also will be addressing issues such as the expiration of the Commission's office lease in about a year; legislative funding to update the office servers; and work arrangements after the pandemic.

Executive Director Harris referred to the materials for the Education and Training Report; Guidance and Assignment Statistics for December; Financial Report for the Second Quarter of FY 2021-2022; and the January issue of *The High Road*. The Commissioners did not have any questions about these items.

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Chair Wood said that she liked the most recent issue of *The High Road* and thought that it was well done.

Executive Director Harris also informed the Commission that he hired someone for the vacant staff attorney position and the person will start work on February 10.

Staff Attorney Chang updated the Commission about the new travel questionnaire form on the Commission's website and financial disclosure deadlines for legislators, employees, and board members. She explained that because this is an election year, candidates will also be filing financial disclosures.

Agenda Item No. IV: 2022-2023 Budget

There was no discussion about this agenda item.

Agenda Item No. V: Legislative Session

Vice Chair Fong said that he strongly supported the proposed mandatory ethics training bill. Commissioner McCarthy agreed and said it was fundamental that all employees should receive ethics training.

Executive Director Harris said that the Commission's proposed mandatory training bill was introduced as HB 1475 and SB 2039, and the chairs of both Judiciary committees tentatively supported hearing the bill. Executive Director Harris also spoke to HGEA about the bill. He said that the issues that may come up are more administrative in nature, such as how the Commission will track employees who take the training, how all employees will obtain access to a computer, and whether the training will take place during work time. Executive Director Harris is trying to communicate to others that the spirit of the bill is to have more employees take the ethics course. He also spoke about the training sessions conducted by staff and the online training course. He explained that in order to push for mandatory training, it was important to have the online course available for employees to take as their schedule permits.

Sandy Ma of Common Cause Hawai‘i asked whether the Commission provides ethics guidance to candidates. Associate Director Yoza explained that until a candidate becomes an elected state official, the Commission's jurisdiction is limited to requiring the candidate to file a financial disclosure. However, candidates who are engaged in campaign activities do interact with state agencies and the Commission has in the past sent its campaign guidelines to legislators and state departments as an ethics reminder about campaign activities by state officials and employees.

Executive Director Harris said that he has received many questions from legislators about the Commission's administrative rules regarding gifts. To address

some of these questions and possible changes to the Gifts law, staff is putting together a Quick Guide on gifts to legislators.

The Commissioners discussed scheduling a meeting in early February to discuss bills that have been introduced so that staff has guidance as to the Commission's position on these bills should they be scheduled for hearings. By consensus, the Commissioners agreed to schedule a meeting on February 3, 2022, at 9:00 a.m. to discuss legislation.

Agenda Item No. VI: *Akana v. Hawaii State Ethics Commission and Daniel Gluck*, Civil No. 18-1-1019-06 (JHA); *Akana v. Hawaii State Ethics Commission*, Civil No. 19-1-0379-03 (JHA); *State of Hawaii, Ethics Commission v. Rowena Akana*, Civil No. 20-1-0453 (BIA)

Executive Director Harris stated that the Commission is still awaiting a decision from the Intermediate Court of Appeals; there are no other updates. He recommended that the Commission go into Executive Session to consult with its attorneys about other issues relating to this matter.

RECESS OF SUNSHINE LAW MEETING AND CONVENING OF EXECUTIVE SESSION

At approximately 9:51 a.m., Vice Chair Fong made and Commissioner Graulty seconded a motion to convene an Executive Session pursuant to Hawai'i Revised Statutes section 92-5(a)(4) to consult with the Commission's attorneys on questions and issues pertaining to the Commission's powers, duties, privileges, immunities, and liabilities. The motion carried unanimously (Wood, Fong, Graulty, McCarthy, and Tobias voting).

The Commissioners and staff met in Executive Session. All members of the public were excused.

ADJOURNMENT OF EXECUTIVE SESSION AND RETURN TO SUNSHINE LAW MEETING

At approximately 10:08 a.m., Commissioner Tobias made and Commissioner Graulty seconded a motion to adjourn the Executive Session and return to the Sunshine Law meeting. The motion carried unanimously (Wood, Fong, Graulty, McCarthy, and Tobias voting).

The Commission adjourned the Executive Session and returned to the Sunshine Law meeting at approximately 10:09 a.m. There were no members of the public who were waiting to be re-admitted to the Sunshine Law meeting.

ADJOURNMENT OF SUNSHINE LAW MEETING

At approximately 10:09 a.m., Commissioner Graulty made and Vice Chair Fong seconded a motion to adjourn the Sunshine Law Meeting. The motion carried unanimously (Wood, Fong, Graulty, McCarthy, and Tobias voting).

The meeting was adjourned at 10:09 a.m.

Minutes approved on _____.

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SUNSHINE LAW MEETING
AGENDA ITEM II

CONSIDERATION AND APPROVAL OF THE MINUTES OF THE JANUARY 19, 2022 EXECUTIVE SESSION MEETING

The Hawai‘i State Ethics Commission may convene an executive session pursuant to Hawai‘i Revised Statutes section 92-5(a)(4) to consult with the Commission’s attorneys on questions and issues pertaining to the Commission’s powers, duties, privileges, immunities, and liabilities.

Attachment 1: Sunshine Law Meeting Minutes of the January 19, 2022 Hawai‘i State Ethics Commission Executive Session Meeting

****Executive Session Meeting Minutes not provided to the public.****

SUNSHINE LAW MEETING
AGENDA ITEM III

CONSIDERATION AND APPROVAL OF THE MINUTES OF THE FEBRUARY 3, 2022 MEETING

Attachment 1: Sunshine Law Meeting Minutes of the February 3, 2022 Hawai‘i State Ethics Commission Meeting

SUNSHINE LAW MEETING
MINUTES OF THE HAWAI'I STATE ETHICS COMMISSION

STATE OF HAWAI'I

Date: February 3, 2022

Time: 9:00 a.m.

Location: Held via Zoom video and audio conference

Present: State Ethics Commission Members

Melinda S. Wood, Chair (via video conference)
Wesley F. Fong, Vice Chair (via video conference)
Reynard D. Graulty, Commissioner (via video conference)
Harry J. McCarthy, Commissioner (via video conference)
Beverley Tobias, Commissioner (via video conference)

State Ethics Commission Staff

Robert D. Harris, Executive Director (via video conference)
Susan D. Yoza, Associate Director (via video conference)
Nancy C. Neuffer, Staff Attorney (via video conference)
Bonita Y.M. Chang, Staff Attorney (via video conference)
Kee M. Campbell, Staff Attorney (via video conference)
Patrick W.C. Lui, Computer Specialist (via audio conference)

Sandy Ma, Common Cause Hawaii

CALL TO ORDER

Chair Wood called the meeting to order at 9:01 a.m. and confirmed that all Commissioners, except for Commissioner Tobias, and all staff were present. Chair Wood announced that if the Commission's videoconference connection was lost during the meeting, the meeting would be recessed and reconvened after the connection was restored; members of the public were asked to check the Commission's website (www.ethics.hawaii.gov) for information about reconnecting to the meeting.

Agenda Item No. I: 2022 Legislative Session – Commission's input/guidance on legislative matters

Executive Director Harris referred to the list of 2021 bills of interest. He said the bills were still technically alive, but the Legislature's focus would likely be on the bills

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introduced this year. The Commission previously developed its position on the 2021 bills and Commissioners had no questions about those bills.

a) Hawaii State Ethics Commission measures.

HB 1475/SB 2039, Relating to Mandatory Ethics Training (2022). Executive Director Harris summarized HB 1475, the Commission's mandatory ethics education bill. Executive Director Harris has informed legislators that the purpose of the bill is to increase the number of participants who take the ethics online training. He said that he would like to focus on increasing employee participation in a positive way rather than through aggressive enforcement action. He also said that HGEA wanted the training to take place during work time, which Executive Director Harris said he supports.

Vice Chair Fong made and Commissioner Graulty seconded a motion to support HB 1475 and its companion bill, SB 2039. The motion carried unanimously (Wood, Fong, Graulty, and McCarthy voting).

b) Gifts and gifts reporting.

HB 1871/SB 2714, Relating to Gifts (2022). Executive Director Harris said that HB 1871 and SB 2714 appear to be in response to the Commission's administrative rules on gifts. He explained that the bills provide a blanket exception to the gifts law for items such as bentos and manapua, regardless of the source of the gift. He said that some legislators feel there is too much uncertainty in the gifts law and one way to address this is to provide them with guidance to clarify the law. He also said that HB 1871 would move the gifts law back to allow lobbying firms to spend thousands of dollars buying $25 gifts for legislators on a regular basis. This is what the administrative rules were intended to curb.

Commissioner McCarthy suggested that the Commission include commentary in its testimony on the bill to provide general guidelines about the law. Chair Wood added that the right amount of guidance should be provided for people to make informed decisions for themselves or to call the Commission's office if they are uncertain.

Executive Director Harris recommended that the Commission oppose HB 1871 and SB 2714, but at the same time try to provide more "black and white" guidance to legislators about the gifts law. He said that lobbyists previously understood that in order to speak to a legislator, they had to bring a gift. The Commission is trying to move away from this, but HB 1871 is moving in the direction of allowing more gifts.

Commissioner Graulty said that the Commission's rules are very clear and strict, but not practical. He said that legislators receive a lot of gifts of aloha and that having a $25 threshold made more sense to him. He did not believe that a $25 gift would affect a legislator's actions, whether the gift comes from a neighborhood board member, someone in the community, or a lobbyist. He said that gifts above the $25 threshold should be reviewed more closely.

Staff Attorney Chang said the concern with the bill is that it applies not just to legislators, but to all state employees. She said the Commission could take a narrower approach by amending its rules or issuing guidance to legislators about gifts. Executive Director Harris added that the bill would allow gifts of aloha to a health inspector and the appearance from the public's perspective is that this is inappropriate. He said that a gift of banana bread to a legislator from a neighbor is not something the Commission wants to regulate and is something that can be clarified by the Commission.

[Commissioner Tobias joined the meeting via video conference at approximately 9:30 a.m.]

Executive Director Harris suggested that the Commission oppose the bill, but inform the Legislature that it would like to take more time to clarify the gifts law. He said that before the next legislative session, the Commission can look at its administrative rules to see what improvements can be made. He preferred for the Commission to have more control over this issue versus having something put into the gifts statute.

Commissioner Graulty said that the Legislature will want this issue resolved and put to bed. He wondered whether other states have a problem with gifts of aloha which are part of our culture. He did not believe that people give gifts of aloha to influence legislators – only to show appreciation. He said that instead of studying this issue more, he would prefer to go with what we know under the circumstances and put a dollar amount into the bill. He said that the Commission should consider the cultural atmosphere in which decisions are made and added that he was only talking about a small gesture of appreciation.

Chair Wood noted that the bill applies not just to legislators, but to all state employees and this makes a difference to her. She said that the Commission may come up with an interpretation that will allow for tokens of aloha, but without setting a dollar amount as provided by the bill.

Commissioner McCarthy made and Vice Chair Fong seconded a motion to table the discussion of this matter for further review by staff so that the Commission can decide at its next meeting on February 16, 2022, whether to support or oppose the bill.

Commissioner Tobias said that she is concerned about employees in positions of power, such as inspectors, and how their actions will be influenced by gifts. She said that people appreciate gifts and will look favorably upon such gifts such that she wondered whether even small gifts might influence their actions.

Chair Wood also asked staff to gather more information about other states' laws. Commissioner McCarthy said that he would like staff to discuss the factors in favor of support for the bill and opposition to the bill, with some examples.

Further discussion followed about what the Commission's response will be if the bill is scheduled for a hearing before the Commission's next meeting on February 16.

Commissioner Graulty said that until the Commission takes a position, its position should be that it has no position on the bill and the matter is under review. He noted that the bill will still have to go through other committee hearings.

Executive Director Harris said he would recommend the Commission respond to the bill by informing the Legislature that it understands its concerns about the lack of clarity in the Commission's rules and will try to provide greater clarity through the rule-making process. This will allow the Commission to craft its rules more narrowly.

Chair Wood called for a vote on the motion to allow for more information gathering and to have the Commission make a decision about the bill at its meeting on February 16, 2022. The motion carried (Fong, Graulty, and McCarthy voting aye; Tobias voting nay; Wood abstaining).

Executive Director Harris said that if the bill comes up for a hearing before the next meeting, he will not submit testimony but will be available at the hearing for questions. Vice Chair Fong suggested that Executive Director Harris respond that the Commission is taking the matter under advisement pending further review and will get back to Legislature.

HB 2069/SB 3037, Relating to Gifts (2022). Executive Director Harris said that the Governor introduced this bill, which addresses the handling and disposition of protocol gifts. He recommended that the Commission submit comments to clarify the distinction between protocol gifts to an individual and protocol gifts to the State.

Commissioner Graulty made and Commissioner McCarthy seconded a motion to submit comments on HB 2069 and SB 3037 as recommended by the Executive Director. The motion carried unanimously (Wood, Fong, Graulty, McCarthy, and Tobias voting).

c) Public accountability agency (no new bills introduced).

d) Post-employment (no new bills introduced).

e) Conflicts of interests.

HB 1786 and HB 2159/SB 3127, Relating to Workforce Development Boards (2022). Executive Director Harris said that these three bills are essentially the same and are trying to comport with a federal statute that requires the development of a written conflict of interest policy for workforce development boards. The bills were already heard and staff submitted comments supporting the development of ethics policies and offering to assist with this. Executive Director Harris said that one line in the bill implies that the Governor would be given the discretion to determine what is a conflict of interest under federal and state law. He said that this language comes from the federal law, but staff will work with the Director of the Department of Labor and Industrial Relations to clarify that we are not delegating the Commission's ability to

interpret the ethics code to the Governor as this would present constitutional challenges.

Vice Chair Fong made and Commissioner Tobias seconded a motion to support the development of ethics policies as provided by these bills, but also to clarify that the Commission is not giving up its jurisdiction with respect to the state ethics laws. The motion carried unanimously (Wood, Fong, Graulty, McCarthy, and Tobias voting).

HB 1820, Relating to Casino Gambling (2022). Executive Director Harris explained that this bill creates a Gaming Control Commission and requires adoption of a code of ethics that is separate from and in addition to HRS chapter 84. He recommended that the Commission support this provision in the bill without taking a position on the rest of the bill.

Commissioner Tobias made and Commissioner Graulty seconded a motion to submit comments in support of the language in HB 1820 that provides for standards of ethics that are in addition to HRS chapter 84. The motion carried unanimously (Wood, Fong, Graulty, McCarthy, and Tobias voting).

f) Financial Disclosures.

HB 1849/SB 2123, Relating to State Boards and Commissions (2022). Executive Director Harris explained that HB 1849 requires amounts reported by nonpaid volunteer board members to be redacted from their public financial disclosures. This bill has already been heard and based on past precedent, staff testified in opposition to the bill. Executive Director Harris added that the conflict of interest law is based on whether someone has a substantial financial interest and the disclosure of dollar amounts helps the public determine whether a filer has a substantial financial interest or not.

Commissioner Graulty made and Vice Chair Fong seconded a motion to oppose HB 1849 and SB 2123. The motion carried unanimously (Wood, Fong, Graulty, McCarthy, and Tobias voting).

SB 2776, Relating to Prison Reform; HB 1749, Relating to Housing; and HB 1820, Relating to Casino Gambling (2022). Executive Director Harris explained that these bills deal with who is required to file a financial disclosure statement and the Commission has precedent on this subject. HB 1749 exempts a task force from the financial disclosure requirements. Executive Director Harris explained that this provision is unnecessary as the Commission has minimal oversight with respect to task forces. He said that if the boards in the other bills exercise significant powers, they cannot be exempted from the financial disclosure requirement under the State Constitution.

Vice Chair Fong made and Commissioner Tobias seconded a motion to submit comments on the financial disclosure provisions of SB 2776, HB 1749, and HB 1820 as discussed by the Executive Director. The motion carried unanimously (Wood, Fong, Graulty, McCarthy, and Tobias voting).

g) Fair Treatment (no new bills introduced).

h) Lobbyist Law (no new bills introduced).

i) Budget.

HB 2500, Making Appropriations to Provide for the Expenses of the Legislature, the Auditor, the Legislative Reference Bureau, the Ombudsman, and the Ethics Commission (2022). Executive Director Harris said this bill was being heard in the afternoon and staff already submitted testimony in support of the bill. He said the bill includes funding to move the Commission's investigator position to a full-time position, to update the office servers, to provide for salary increases authorized by the Legislature for all legislative agencies, and to cover predicted rent increases. He explained that the bill provides 100% of what the Commission requested for its budget.

Commissioner Fong asked whether the budget includes funding for neighbor island Commissioners to travel to Oahu for Commission meetings. Executive Director Harris said that funds for travel are included in the budget based upon what was in the Commission's 2020 budget.

j. Short form bills (no discussion).

k. Other.

Executive Director Harris covered the remaining bills and the Commissioners by consensus agreed with his recommendations with respect to those bills as follows:

SB 2138, Relating to State Employees (2022). Executive Director Harris recommended supporting this bill, which would add interns into the definition of "employee" for purposes of the Ethics Code.

HB 1933, Relating to Persons Working with Children (2022). Executive Director Harris said staff submitted comments on this bill, which establishes a conflict of interest requirement for non-state employees working with children. He said the bill mentions former state employees who contract with the State, and staff submitted comments that there are existing post-employment laws for former employees who contract with the State.

SB 2405, Relating to Public Employees (2022). Executive Director Harris said this bill prohibits state agencies from barring employees from holding public office on a per se basis, and requires a case-by-case analysis of each situation. He recommended the Commission monitor this bill for now and see whether it will impact the Commission.

HB 1593, Relating to Employment (2022). Executive Director Harris said this bill creates an exchange program for civil service employees between the State, counties, and other organizations. The bill would require compliance with HRS chapter 84. He recommended the Commission follow this bill to make sure the Commission

stays within its jurisdiction and does not trample on the jurisdiction of other ethics boards, such as the Honolulu Ethics Commission. He asked for a motion from the Commission on this bill.

Vice Chair Fong made and Commissioner Graulty seconded a motion to submit comments on HB 1593 to make sure the Commission's jurisdiction under the bill is clear. The motion passed unanimously (Wood, Fong, Graulty, McCarthy, and Tobias voting).

Agenda Item No. II: Consideration and Approval of a Draft Quick Guide for Legislators

Executive Director Harris provided an update on the Quick Guide on Gifts for Legislators.

Chair Wood asked whether any member of the public wished to comment on any matters. Executive Director Harris said that Sandy Ma of Common Cause Hawai'i sent a message before she left the meeting saying that Common Cause Hawai'i will be opposing HB 1871 and SB 2714, Relating to Gifts.

ADJOURNMENT OF SUNSHINE LAW MEETING

At approximately 10:31 a.m., Commissioner Graulty made and Vice Chair Fong seconded a motion to adjourn the Sunshine Law Meeting. The motion carried unanimously (Wood, Fong, Graulty, McCarthy, and Tobias voting).

The meeting was adjourned at 10:32 a.m.

Minutes approved on _____.

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SUNSHINE MEETING
AGENDA ITEM IV

EXECUTIVE DIRECTOR'S REPORT
February 16, 2022

1. **Education / Training Report**

   Attachment 1: 2022 Training Attendance / Schedule

   Attachment 2: Online Training Completions by Department

2. **Guidance and Assignment Statistics – January 2022**

   Attachment 3: 2022 Guidance and Assignment Statistics / Website Traffic

3. **Miscellaneous Office Projects / Updates**

HAWAII STATE ETHICS COMMISSION

2022 EDUCATION PROGRAM

(Ethics Workshops and Presentations)

DATE	PRESENTATIONS	NUMBER OF PARTICIPANTS
1/5/2022	General Ethics Training, Lobbyists Law Training, Zoom	88
1/10/2022	General Ethics Training, ERS, Teams	24
1/11/2022	General Ethics Training, Lobbyists Law Training, Zoom	54
1/11/2022	General Ethics Training, Senate Staff, Zoom	54
1/13/2022	General Ethics Training, Senate Staff, Zoom	31
1/25/2022	General Ethics Training, Zoom	188
2/23/2022	General Ethics Training, Judiciary, Zoom	
2/24/2022	General Ethics Training, Judiciary, Zoom	
TOTAL	**8 Presentations**	**439 participants**

Online Training Completions by Department

Department/Agency	2022 Total	Overall Total
Department of Accounting and General Services (DAGS)		67
Department of Agriculture (DOA)		54
Department of Budget and Finance (B&F)		1
Department of Business, Economic Development and Tourism (DBEDT)	3	69
Department of Commerce and Consumer Affairs (DCCA)	1	48
Department of Defense (DOD)		73
Department of Education (DOE)	1	228
Department of Health (DOH)		229
Department of Human Resources Development (DHRD)		4
Department of Human Services (DHS)		204
Department of Labor and Industrial Relations (DLIR)		41
Department of Land and Natural Resources (DLNR)		75
Department of Public Safety (DPS)		44
Department of Taxation (TAX)		1
Department of the Attorney General (ATG)	2	119
Department of Transportation (DOT)	1	282
Hawaii Health Systems Corporation (HHSC)		41
Hawaii State Public Library System (HSPLS)		1
Judiciary (JUD)	6	63
Office of Hawaiian Affairs (OHA)	9	71
Office of the Auditor (AUD)		3
Office of the Governor (GOV)	2	11
Office of the Lieutenant Governor (LTG)		4
Office of the Ombudsman (OMB)		2
Other (Please fill-in "Other Department/Agency")	1	58
Public Charter School (SPCSC)		19
Research Corporation of the University of Hawaii (RCUH)		9
Senate (SEN)		4
University of Hawaii-Community Colleges (UOHC)	1	78
University of Hawaii-Hilo (UOHH)		3
University of Hawaii-Manoa (UOHM)	4	120
University of Hawaii-System (UOH)		44
University of Hawaii-West Oahu (UOHW)	4	71
Total Employee Certificates of Completion Issued	**35**	**2141**
Board and Commission	2022 Total	Overall Total
Board of Agriculture		1
Board of Education		7
Board of Electricians and Plumbers		1
Board of Land and Natural Resources		2
Board of Taxation Review		1
Boxing Commission		1
Commission on Water Resource Management		1
Hawai‘i Employer-Union Health Benefits Trust Fund		1
Hawai‘i Health Systems Corporation-Corporation		1
Hawai‘i Housing Finance and Development Corporation		1
Hawai‘i State Ethics Commission		2
Island Burial Council - Kauai/Niihau		3
Island Burial Council - Oahu		1
Legacy Land Conservation Commission		1
Medical Education Council		1
Other (Please fill-in "Other Board/Commission")	1	18
Soil and Water Conservation District Boards		2
University of Hawai‘i Board of Regents		2
Total Board and Commission Certificates of Completion Issued	**1**	**47**
Total Certificates of Completion Issued	**36**	**2188**
As of February, 2022		

2022	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Year to date
Training statistics													
# of In-Person Trainings	0												0
# of People Trained In Person	0												0
# of On-Line Trainings (Self-Directed)	35												35
# of Training Webinars	6												6
# of Participants in Training Webinars	439												439
Attorney of the Day	76												76
New assignments													
Advisory Opinion	0												0
Complaint	5												5
Gifts/Invitations/Travel	5												5
Guidance	6												6
Judicial Selection Comm'n	0												0
Training Request	0												0
Record Request	1												1
Project/Other	5												5
Total	22	0	0	0	0	0	0	0	0	0	0	0	22
Closed Assignments													
Advisory Opinion	0												0
Complaint	4												4
Gifts/Invitations/Travel	5												5
Guidance	3												3
Judicial Selection Comm'n	0												0
Training Request	0												0
Record Request	1												1
Project/Other	6												6
Total	19	0	0	0	0	0	0	0	0	0	0	0	19
Anti-Fraud	2												2

SUNSHINE LAW MEETING
AGENDA ITEM V

2022 LEGISLATIVE SESSION

1. Status of Current Bills

Attachment 1: Status of Current Legislation

2. Discussion of Gift Law Updates/Revisions

Attachment 2: Gifts Law Presentation

Attachment 3: Quick Guide: Gifts to Legislators

Attachment 4: Legislator Gift Restrictions (from National Conference of State Legislatures)

Attachment 5: National Gift Law Summary

Bill #	Topic	Title	LRB Summary	Commission Position	2022 Status
HB 1786	Workforce Development Board; Local Workforce Development Boards; Composition; Conflict of Interest; DLIR	RELATING TO WORKFORCE DEVELOPMENT BOARDS.	Renames the workforce development council the workforce development board. Requires the state workforce development board and local workforce development boards to develop conflict of interest policies. Amends the composition and powers of the board. Effective 7/1/2023.	Support; proposed amending language that seemingly gave Governor authority over the State Ethics Code.	2/8/22 HB1786: The committee(s) on LAT recommend(s) that the measure be deferred.
HB 1849	Financial Disclosure Statements; Public Records; Inspection and Duplication; Redaction	RELATING TO STATE BOARDS AND COMMISSIONS.	Requires certain information on the financial disclosure statements deemed to be public records for non-paid volunteer members of state boards and commissions to be redacted.	Opposed.	2/4/22 HB1849: The committee(s) on GVR recommend(s) that the measure be deferred.
HB 1933	Children; Contractors; Ethics; Rules; Penalties	RELATING TO PERSONS WORKING WITH CHILDREN.	Establishes rules of ethics applicable to persons who work with children pursuant to a contract with the State. Requires recommendations made to tribunals to base any factual findings on the relevant legal standard of proof applicable to the matter. Provides that the contracts of any person who violates the rules of ethics are voidable on behalf of the State.	Comments: suggested clarifying applicability of the post-employment law to state employees. Committee incorporated Ethic Commission recommendations into an amended version of the bill.	2/4/22 HB1933: The committees on GVR recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 8 Ayes: Representative(s) McKelvey, Wildberger, Cullen, Eli, Ichiyama, Mizuno, Woodson, Yamashita; Ayes with reservations: none; Noes: none; and 1 Excused: Representative(s) Ward.
HB 2258	Corrections; DPS; Oversight; Women's Corrections Implementation Commission; Report; Appropriation ($)	RELATING TO CORRECTIONS.	Establishes the Women's Correctional Implementation Commission within the Department of Public Safety to provide oversight over state correctional facilities that incarcerate women, receive and investigate complaints from incarcerated women, monitor the criminal justice system's progress in implementing reforms, and monitor programs and data that are important to ensuring successful outcomes for women in the correctional system. Appropriates moneys.	Comment: proposed removing language exempting from Chapter 84. Amended bill incorporated Ethic Commission comments.	2/9/22 HB2258: Reported from CMV (Stand. Com. Rep. No. 129-22) as amended in HD 1, recommending passage on Second Reading and referral to JHA.
HB 2500	Legislative Appropriations ($)	MAKING APPROPRIATIONS TO PROVIDE FOR THE EXPENSES OF THE LEGISLATURE, THE AUDITOR, THE LEGISLATIVE REFERENCE BUREAU, THE OMBUDSMAN, AND THE ETHICS COMMISSION.	Appropriates funds to provide for the expenses of the Legislature, Auditor, Legislative Reference Bureau, Ombudsman, and Ethics Commission.	Strongly support.	2/7/22 HB2500: Passed Second Reading as amended in HD 1; placed on the calendar for Third Reading with none voting aye with reservations; none voting no (0) and Representative(s) Gates, LoPresti, McDermott, McKelvey excused (4).

Bill #	Topic	Title	LRB Summary	Commission Position	2022 Status
HB1475	Hawaii State Ethics Commission Package; Ethics Code; Live and Online Classes; Mandatory Training	RELATING TO MANDATORY ETHICS TRAINING.	Requires all new state employees to complete ethics training either live or online within 90 days of the start of employment and every 4 years thereafter. Requires existing employees who have not received ethics training within the immediately preceding 3 years to complete live or online ethics training within 12 months of the Act's effective date and at least once every 4 years thereafter. Specifies that certain state officers shall complete live ethics training.	Strongly support.	2/9/22 HB1475: Bill scheduled to be heard by GVR on Friday, 02-11-22 9:30AM in House conference room 309 Via Videoconference.
HB1749	Department of Human Services; Supportive Housing Task Force; Appropriation	RELATING TO HOUSING.	Establishes and appropriates funds for a supportive housing task force to develop a new monitoring and forecasting system, bring stakeholders together to develop a roadmap for implementing supportive housing, address financing opportunities, bridge housing developers with supportive housing service providers, and develop best practices for supportive housing in the State.	Comment: suggested removing language exempting from Chapter 84. Amended bill adopts Ethic Commission's suggestions.	2/8/22 HB1749: The committees on HSG recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 8 Ayes: Representative(s) Nakamura, Hashimoto, Aquino, Clark, Ilagan, Kitagawa, LoPresti, Takumi; Ayes with reservations: none; 0 Noes: none; and 1 Excused: Representative(s) McDermott.
HB1871	Gifts; Standards of Conduct; Code of Ethics; Exceptions; Foreign Protocol Gifts; Gifts of Aloha; Invitation to Events	RELATING TO GIFTS.	Excludes from the State Code of Ethics' prohibition against acceptance of gifts by legislators and employees, foreign protocol gifts, gifts of aloha, invitations to certain events, and meals, under certain conditions. Defines foreign protocol gifts and gifts of aloha.	Support.	2/9/22 HB1871: Bill scheduled to be heard by GVR on Friday, 02-11-22 9:30AM in House conference room 309 Via Videoconference.
HB2069	Gifts, Reporting and Disposition of Gifts Received	RELATING TO GIFTS.	Defines the reporting and disposition requirements for gift received by members of the legislature or employees of the State.	No position.	2/9/22 HB2069: Bill scheduled to be heard by GVR on Friday, 02-11-22 9:30AM in House conference room 309 Via Videoconference.
HB2159	Workforce Development Board	RELATING TO WORKFORCE DEVELOPMENT BOARDS.	Amends the Workforce Development Board law to be consistent with the General Appropriations Act of 2021, Act 88, Session Laws of Hawaii 2021.	Support: proposed language to clarify Governor cannot oversee State Ethics Code. Proposed amendment was adopted.	2/8/22 HB2159: The committees on LAT recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 8 Ayes: Representative(s) Onishi, Sayama, Belatti, Holt, D. Kobayashi, Quinlan, Takayama, Okimoto; Ayes with reservations: none; 0 Noes: none; and 0 Excused: none.
SB2039	Hawaii State Ethics Commission Package; Ethics Code; Live and Online Classes; Mandatory Training	RELATING TO MANDATORY ETHICS TRAINING.	Requires all new state employees to complete ethics training either live or online within 90 days of the start of employment and every 4 years thereafter. Requires existing employees who have not received ethics training within the immediately preceding 3 years to complete live or online ethics training within 12 months of the Act's effective date and at least once every 4 years thereafter. Specifies that certain state officers shall complete live ethics training.	Strong support.	1/21/22 SB2039: Referred to LCA, JDC.

Bill #	Topic	Title	LRB Summary	Commission Position	2022 Status
SB2714	Gifts; Standards of Conduct; Code of Ethics; Exceptions; Foreign Protocol Gifts; Gifts of Aloha; Invitation to Events	RELATING TO GIFTS.	Excludes from the State Code of Ethics' prohibition against acceptance of gifts by legislators and employees, foreign protocol gifts, gifts of aloha, invitations to certain events, and meals, under certain conditions. Defines foreign protocol gifts and gifts of aloha.	No position	1/24/22 SB2714: Referred to JDC.
SB3037	Gifts, Reporting and Disposition of Gifts Received	RELATING TO GIFTS.	Defines the reporting and disposition requirements for gift received by members of the legislature or employees of the State.	Support.	2/7/22 SB3037: The committee(s) on GVO has scheduled a public hearing on 02-10-22 3:05PM; Via Videoconference.
SB3127	Workforce Development Board	RELATING TO WORKFORCE DEVELOPMENT BOARDS.	Amends the Workforce Development Board law to be consistent with the General Appropriations Act of 2021, Act 88, Session Laws of Hawaii 2021.	Support: proposed language clarifying Governor's role in reviewing State Ethics' Code. Proposed amendment was not included (yet).	1/31/22 SB3127: The committee(s) on LCA recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in LCA were as follows: 5 Aye(s): Senator(s) Taniguchi, Ihara, Chang, Keohokalole, Fevella; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.

Hawai‘i State Ethics Commission

Gifts Discussion

Questions to Address:

- Should existing Gift statutory/administrative regime be changed or clarified?
- Should the Commission support a legislative change to the Gift law or pursue an administrative route?

Gifts Law

HRS § 84-11, HAR § 21-7-2(a)

State officials may not solicit or accept any gifts if it can reasonably be inferred that the gift is offered to influence or reward the state official for performing official action.

Gifts Law

HRS § 84-11, HAR § 21-7-2(b)

Relationship of Donor to the Recipient?

Value of the gift?

Is there a state purpose/state benefit?

Gifts Exceptions

HAR § 21-7-3, 21-7-4

What gifts are ok?

Unsplash: blessing ri
Unsplash: chuttersnap
SEPTEMBER
Unsplash: Kelly Sikkema
Unsplash: simona sera

Typical Concerns Heard from Legislators:

- Unable to accept banana bread from constituents.
- Unable to accept bentos at a community event/dinner.
- Unable to take free parachuting/gifts from the military.
- Unable to have lunches provided by developers/tradegroups/etc. while discussing their proposals.
- There was a power grab by the Ethics Commission, that is, “gotta call the Commission for permission to take a gift.”

Proposed Quick Guide

- See Attachment: Quick Guide Gifts to Legislators.

Other Jurisdictions

- See, generally, https://www.ncsl.org/research/ethics/50-state-table-gift-laws.aspx
- Majority of jurisdictions appear to allow gifts from lobbyists, although many jurisdictions have a monthly or annual aggregate limit and some form of reporting requirement.

Current Legislative Efforts - HB1871/SB2714

- Allows both employees and legislators to accept: (1) foreign protocol gifts; (2) gifts of aloha; (3) invitations to charitable events; and (4) "meals with a fair market value of no more than $__."
- "Foreign Protocol Gifts" are defined as tangible items offered by a foreign government to a legislator for protocol purposes and accepted on behalf of the state "for the purpose of promoting international good will between the State of Hawaii and the foreign government." Gifts above a certain value would belong to the State rather than the individual.
- "Gifts of aloha" are defined as tangible items given as "a token of aloha or appreciation" that are: (1) perishable items, such as manapua, plate lunches, leis, etc., with a fair market value of "$__ or less"; and (2) durable items offered to a legislator or employee "to honor the legislator or employee, including plaques, framed certificates, drawings, and photographs" etc.

Benefit to HB1871/SB2714

- Provides some clarity on issues such as lunches under a dollar threshold, rather than needing to evaluate the three-factor test set out in HAR section 21-7-2.
- Legislatively concludes all gifts to a legislator under a certain dollar value do not trigger the objective standard ("reasonably be inferred that the gift is offered to influence or reward the state official for performing official action.").

Challenges with HB1871/SB2714

- The meal provision and gifts of aloha provision apply to both employees and legislators. Creates issues such as whether employees hearing contested cases, doing procurement selections, inspecting businesses, etc., could accept lunches from any source. Could a taxpayer under audit by DOTAX drop off a box of malasadas for the entire DOTAX office?
- No cap on the amount of gifts of aloha or lunches. Even when the Ethics Commission previously allowed Gifts of Aloha, they were "token" gifts of appreciation. In their current iteration, these bills does not specifically limit the number of these gifts.
- Dollar values are blank.

Challenges with HB1871/SB2714 (con't)

- Gifts of aloha are defined relatively vaguely in HB1871. Whether a gift is a "token of aloha or appreciation" vs. any other type of gift may be difficult to determine.
- Foreign protocol gifts are allowed to be personal property under HB1871 (not currently allowed under HAR 21-7-3-(a)(6)).
- Creates overlapping statutory and administrative provisions governing the same conduct. If some iteration of HB1871 passes, the administrative rules would need to be revised. Instead, the Commission could consider implementing changes to the administrative rules with input from the legislature.

Administrative Rule Options:

Preference is to update rules to (1) provide more certainty to employees, (2) review other jurisdictions for best practices, and (3) maintain flexibility to adjust as complications arise.

- Some options include:
- (1) Revert to a gifts of aloha rule, but limit to Legislators; or
- (2) Spell out clear examples/exceptions that address Legislators' concerns.
    - Keep restrictions on gifts from lobbyists;
    - More directly allow gifts from family/friends/constituents that are below some thresholds, with some clear guidance to prevent abuse.

HAWAI'I STATE ETHICS COMMISSION JANUARY 19, 2022

State Ethics Code

Quick Guide: Gifts to Legislators

Gifts to Legislators

The State Ethics Code prohibits legislators and employees from accepting gifts where it is reasonable to infer that the gift is intended to influence or reward official action. Below are answers to some common questions about gifts to legislators.

Gifts from Constituents

Question: May a legislator accept a modest gift from a constituent, such as home-made bread or a box of cookies?

Answer: YES, so long as the constituent is not a lobbyist, nor asking the legislator to take official action that directly benefits the constituent.

Question: May a legislator accept a lei at a special event, such as the opening day of the Legislature?

Answer: YES, legislators may accept lei, other than money lei, from any source, including lobbyists, in connection with a celebration or special event.

Question: If a legislator attends a community event open to the public, may the legislator eat food at the event?

Answer: YES, legislators may attend community events and eat food at those events if the food is not being provided by a lobbyist or someone seeking official action from the legislator. If the food is being provided by a lobbyist or lobbying organization, the legislator should not accept free food or other gifts. If the community event is genuinely open to the public (i.e., reasonable notice has been provided and any member of the public may attend), a legislator may accept food in the same manner as other members of the public, even if the food is being provided by a lobbyist or lobbying organization.

Gifts from Lobbyists

Question: May a legislator accept a holiday gift basket or box of cookies from a lobbyist?

Answer: NO, legislators generally may not accept gifts from lobbyists, including gift baskets, meals, and other gifts. But see the discussions above and below about leis and

small promotional items, which are generally acceptable.

Question: May a legislator accept a small promotional item from a lobbyist, such as a branded pen or notepad?

Answer: YES, legislators are permitted to accept small promotional items having no resale value, such as branded pens, hats, calendars, or tote bags, from any source including lobbyists.

Gifts from Other Entities, Colleagues, and State Employees

Question: May a legislator accept a modest gift from a consulate or foreign government, such as a calendar?

Answer: YES, so long as the consulate or foreign government is not lobbying or asking the legislator to take official action. If the gift is more expensive, such as a piece of art received from attending a formal event, it should be treated as state property.

Question: If a legislator attends a community event, may the legislator eat food at the event?

Answer: YES, legislators may attend work-related community events and eat food at those events if the food is not being provided by a lobbyist or someone seeking official action from the legislator. If the food is being provided by a lobbyist or lobbying organization, the legislator should not accept it or other gifts from that person or organization. If the community event is open to the public (i.e., any member of the public may attend), a legislator may accept food in the same manner as other members of the public, even if the food is being provided by a lobbyist or lobbying organization.

Question: May a legislator accept a gift from another legislator, such as exchanging gifts with another legislator during the holidays?

Answer: YES, legislators may accept gifts from their legislative colleagues. Generally, modest gifts among colleagues in the same office or agency, such as a box of chocolates during the holidays, are allowed.

Question: May a legislator accept a holiday or birthday gift from an employee of another state agency?

Answer: YES, legislators may accept modest gifts from other state employees. However, if a state agency has business before the legislature (such as a budget request), the Commission suggests that legislators avoid accepting gifts from state employees that could appear to be an attempt to influence the legislator.

For more questions about gifts, see our Quick Guide on Gifts at **http://bit.ly/ethics-gifts**.

Any other questions? Contact us at ethics@hawaiiethics.org or (808) 587-0460 for quick, confidential, and free advice.

Legislator Gift Restrictions

Many states place limits on gifts from lobbyists as a means of preventing the possibility that a gift could appear to influence a legislator's decision.

Many states place limits on gifts from lobbyists and family members, gifts from lobbyists or others with an interest in legislation, and gifts from lobbyists and other personal friends are commonly exempt from most restrictions.

Some states place specific dollar amount limits on allowable of gifts, or the aggregate value of gifts that may be given in a year. The range of these limits are may be "nominal" or "token" to $100 or $250 per year. Some have no limit on aggregate per year.

The type of gift and circumstances in which it is given may determine whether it is allowable. Meals, beverages, lodging, and other items gifts often are generally exempt when given in connection with a legislator's official participation in a meeting or other official function or when given as social courtesies or personal relationships. However, a conditioned upon a legislator taking a particular course of action or refraining from a legislator "regardless" of gifts.

The following table provides summaries of the statutory provisions and other restrictions on legislators' and lobbyists' prohibitions for gifts in all 50 states, plus Washington, D.C. and the U.S. Virgin Islands.

The state's snapshot provides general information and data not necessarily definitive of all aspects of the law. Beyond the brief snapshot summaries, the information may be helpful in understanding the statutory provisions. Contact us and dive through NCSL's LEGIS-

Report | Select Places

Legislator Gift Restrictions, 2014

State	Gift Limits	Definitions & Exceptions
Alabama	Legislators may not accept gifts, favors, or services that may influence or reward a member of state legislature in the performance of his official duties. Legislators may not accept compensation for performing his duties in a way that may influence his official duties. Legislators may not use their positions to obtain a pecuniary benefit or to secure privileges or exemptions for themselves or others. Code of Ala. 36-25-5(a)	Exceptions to the gifts prohibition include campaign contributions, CRA fees or other fees or dues required to maintain membership in a political party, and honoraria or other fees or expenses for speaking, teaching, or writing. Code of Ala. 36-25-5(b)
Alaska	Except as otherwise provided in this section, a public officer may not solicit, receive, or agree to receive a gift, direct or indirect, in exchange for being influenced in the performance of a official act or being rewarded for an official act taken. A person may not offer or give a gift that a public officer is prohibited from soliciting or receiving under this section. AS 39.52.150(a)	Exceptions to the ban include campaign contributions, political contributions, and contributions to a political party, political contributions to a political party, political contributions to a political party, political

Hawaii	No legislation or executive order or court decision with statewide authority. Hawaii Revised Statutes § 378-2 (employment discrimination) prohibits discrimination based on "sexual orientation" in employment, housing, or public accommodations, but does not include gender identity. Governor David Ige issued an executive order that applies only to executive branch employees and contractors, prohibiting discrimination based on "gender identity or expression."	Contractors must covenant not to discriminate against employees or applicants for employment on the basis of gender identity or expression and must post notices to employees stating that such discrimination is prohibited. Violations may result in termination of the contract. Enforcement is through the Hawaii Civil Rights Commission, which has jurisdiction over complaints by employees and applicants.	
Idaho	No legislation or executive order. Governor Brad Little has not issued an executive order. Idaho Code § 67-5909 prohibits discrimination based on "sex" in employment, housing, and public accommodations, but does not include sexual orientation or gender identity.	No statewide contract provision. Agencies may include boilerplate at their discretion. Idaho Code § 67-5909 prohibits discrimination in employment, housing, and public accommodations, but does not include sexual orientation or gender identity.	
Illinois	Illinois Human Rights Act, 775 ILCS 5/1-102(A), prohibits discrimination based on "sexual orientation" in employment, housing, and public accommodations. Governor J.B. Pritzker issued executive orders extending protections to state employees and contractors.	Contractors in the ten so-called "sensitive agencies" must covenant not to discriminate against employees or applicants for employment on the basis of political consideration, sexual orientation, or gender identity. Violations may result in termination of the contract. Enforcement is through the Illinois Department of Human Rights, which has jurisdiction over complaints by employees and applicants.	
Indiana	Indiana Code § 22-9-1-2(b) prohibits discrimination based on "sexual orientation" in employment, housing, and public accommodations. Governor Eric Holcomb has not issued an executive order. Indiana Code § 22-9-1-2(b) does not include gender identity.	Contractors in the state executive branch must covenant not to discriminate against employees or applicants for employment on the basis of sexual orientation. Violations may result in termination of the contract. Enforcement is through the Indiana Civil Rights Commission, which has jurisdiction over complaints by employees and applicants.	
Iowa	Iowa Code § 216.6 prohibits discrimination in employment, housing, and public accommodations based on "sexual orientation" and "gender identity." Governor Kim Reynolds has not issued an executive order. Iowa Code § 216.6 applies to private employers and to public offices and agencies.	Iowa Code § 216.6 covers employment practices of "any person." Contractors must covenant not to discriminate against employees or applicants for employment on the basis of sexual orientation or gender identity. Violations may result in termination of the contract. Enforcement is through the Iowa Civil Rights Commission, which has jurisdiction over complaints by employees and applicants.	
Kansas	No state office, agency, employee or contractor is prohibited from discriminating based on "sexual orientation" or "gender identity." Governor Laura Kelly issued executive orders prohibiting discrimination by executive branch agencies, but the orders do not include contractors.	Executive branch agencies are prohibited from contracting with companies that do not have policies in place that prohibit discrimination based on sexual orientation and gender identity. Violations may result in termination of the contract. Enforcement is through the Kansas Human Rights Commission, which has jurisdiction over complaints by employees and applicants.	
Kentucky	Legislation or executive order prohibiting discrimination based on "sexual orientation" or "gender identity" by state agency or contractor employees. Governor Andy Beshear issued executive orders prohibiting discrimination by executive branch agencies. Kentucky Revised Statutes § 344.040 prohibits discrimination by employers, but does not include sexual orientation or gender identity.	Contractors in the executive branch must covenant not to discriminate against employees or applicants for employment on the basis of sexual orientation or gender identity. Violations may result in termination of the contract. Enforcement is through the Kentucky Commission on Human Rights, which has jurisdiction over complaints by employees and applicants.	
Louisiana	No public contract will be awarded to any person who does not certify that he does not knowingly discriminate against employees or applicants for employment on the basis of sexual orientation.	"Every person and agency, by or through its agents or employees, may refuse to furnish any person or business any service, goods, or accommodations if such action would violate such person's or business's sincerely held religious beliefs or moral convictions." Contractors are not required to provide services to a "marriage ceremony or any other ceremony or celebration" that violates such person's sincerely held religious beliefs or moral convictions.	
Maine	No public contract will be awarded to any person who does not certify that he does not knowingly discriminate against employees or applicants for employment on the basis of sexual orientation.	"Every person and agency, by or through its agents or employees, may refuse to furnish any person or business any service, goods, or accommodations if such action would violate such person's or business's sincerely held religious beliefs or moral convictions." Contractors are not required to provide services to a "marriage ceremony or any other ceremony or celebration" that violates such person's sincerely held religious beliefs or moral convictions.	
Maryland	No officer or employee of any state agency, or any person acting on behalf of any state agency, shall knowingly or willfully violate the provisions of Executive Order 01.01.2014.19 with respect to any employee, applicant for employment, or person who is a recipient of services from a state agency.	Prospective State contractors must certify that they do not discriminate against employees or applicants for employment on the basis of sexual orientation. Violations may result in termination of the contract. Enforcement is through the Maryland Commission on Civil Rights, which has jurisdiction over complaints by employees and applicants.	
Massachusetts	No state agency, employee, or contractor may discriminate against employees or applicants for employment on the basis of sexual orientation. Massachusetts General Laws c. 151B, § 4(1) prohibits discrimination by employers, but does not include sexual orientation.	Contractors must covenant not to discriminate against employees or applicants for employment on the basis of sexual orientation. Violations may result in termination of the contract. Enforcement is through the Massachusetts Commission Against Discrimination, which has jurisdiction over complaints by employees and applicants.	
Michigan	A public office or a contractor with a public office may refuse to provide services for the benefit of a marriage or other civil union that violates the religious beliefs of the public office or contractor. Mich. Comp. Laws § 37.2102.	"All persons working in this state, regardless of their sexual orientation, shall have the opportunity to obtain employment without discrimination." Contractors are required to include in their contracts a provision stating that they will not violate the state's civil rights laws with regard to sexual orientation. Violations may result in termination of the contract. Enforcement is through the Michigan Department of Civil Rights, which has jurisdiction over complaints by employees and applicants.	
Minnesota	A person or agency may not grant a gift or provide services or accommodations or employment or membership or membership activities if doing so would violate the religious beliefs of the person or agency. Minn. Stat. § 363A.26(1).	"All persons working in this state, regardless of their sexual orientation, shall have the opportunity to obtain employment without discrimination." Contractors are required to include in their contracts a provision stating that they will not violate the state's civil rights laws with regard to sexual orientation. Violations may result in termination of the contract. Enforcement is through the Minnesota Department of Human Rights, which has jurisdiction over complaints by employees and applicants.	
Mississippi	No state or local government may grant a gift or provide services or accommodations or employment or membership or membership activities if doing so would violate the religious beliefs of the person or agency. Miss. Code Ann. § 11-62-17(1).	"All persons working in this state, regardless of their sexual orientation, shall have the opportunity to obtain employment without discrimination." Contractors are required to include in their contracts a provision stating that they will not violate the state's civil rights laws with regard to sexual orientation. Violations may result in termination of the contract. Enforcement is through the Mississippi Department of Human Rights, which has jurisdiction over complaints by employees and applicants.	
Mississippi	No person or agency may grant a gift or provide services or accommodations or employment or membership or membership activities if doing so would violate the religious beliefs of the person or agency. Miss. Code Ann. § 11-62-17(1).	"Anything of value" (which includes contracts) may be withheld from a person who refuses to provide services to a "marriage or other civil union" that violates the religious beliefs of the person. Miss. Code Ann. § 11-62-17(2).	
Missouri	No licensed or registered marriage officer may be required to perform a marriage that violates the religious beliefs of the officer. Mo. Rev. Stat. § 451.022(1).	"No person or business entity shall be required to provide services, accommodations, goods, or employment or employment benefits to an individual for a marriage that violates such person's or business entity's sincerely held religious beliefs or moral convictions." Contractors are not required to provide services to a "marriage or other civil union" that violates such person's sincerely held religious beliefs or moral convictions. Mo. Rev. Stat. § 451.040(1).	
Montana	A public official or employee may refuse to issue a license or provide services or benefits if doing so would violate the religious beliefs or moral convictions of the official or employee. Mont. Code Ann. § 27-19-102(1).	"All persons working in this state, regardless of their sexual orientation, shall have the opportunity to obtain employment without discrimination." Contractors are required to include in their contracts a provision stating that they will not violate the state's civil rights laws with regard to sexual orientation. Violations may result in termination of the contract. Enforcement is through the Montana Human Rights Bureau, which has jurisdiction over complaints by employees and applicants.	
Nebraska	No person shall be required to perform services that violate such person's sincerely held religious beliefs or moral convictions. Neb. Rev. Stat. § 20-237(1).	"Every person and agency, by or through its agents or employees, may refuse to furnish any person or business any service, goods, or accommodations if such action would violate such person's or business's sincerely held religious beliefs or moral convictions." Contractors are not required to provide services to a "marriage or other civil union" that violates such person's sincerely held religious beliefs or moral convictions. Neb. Rev. Stat. § 20-237(2).	

Nevada	No person shall act in violation of any provision of law or any rule or regulation adopted or order issued by the commission regarding power to the public, or knowingly authorize or permit the officers, agents or employees of such person to violate or fail to comply with any such provision, rule or order. Any person who violates any provision of this section shall be guilty of a misdemeanor and shall be punished by a fine not exceeding $500 or by imprisonment in the county jail not exceeding 6 months, or by both such fine and imprisonment. Each day of such violation constitutes a separate offense. Any officer, agent or employee of any person who shall violate any provision of this section shall be personally liable under the penalties provided in this section. Any person who shall be convicted of violating any provision of this section shall be forever disqualified from holding any office or position of trust or profit in this state. NRS 704.040, 704.205, 704.210, 704.220, 704.230, 704.240, 704.250, 704.260, 704.270, 704.280, 704.290, 704.300, 704.310, 704.320, 704.330, 704.340, 704.350, 704.360, 704.370, 704.380, 704.390, 704.400, 704.410, 704.420, 704.430, 704.440, 704.450, 704.460, 704.470, 704.480, 704.490, 704.500, 704.510, 704.520, 704.530, 704.540, 704.550, 704.560, 704.570, 704.580, 704.590, 704.600,

	ordinary course of business. Tenn. Code Ann. § 9-6-304.
	etc. in a form readily convertible to cash. Opportunities and benefits must be offered to all members of an appropriate class of the general public; Travel expenses, amenities, if offered to all members of an entity or established and recognized organization of government officials, staff of state government officials, staff of state agencies and staff, or any other established and recognized organization that is an umbrella organization for such officials, staff, or both officials and staff, if provided in connection with an in-state event to which all members are invited or extended to the entire membership of the general assembly when within 30 days, reported expenses do not exceed $50.00 per person per day; Food, refreshments, meals, or beverages provided by an employer or its agent in connection with an in-state event, provided value does not exceed $50 per event per day, no cumulative items exceed $100 per day, $250 per year; Occasional or incidental local travel for which no fee is ordinarily charged. Tenn. Code Ann. § 3-6-305.
Texas	Lobbyists may not offer, confer, or agree to confer a gift of cash or a negotiable instrument, over $50 per year in the aggregate, or any gifts. Tex. Gov't Code Ann. § 305.024. A gift may constitute bribery if it is an offer, or agreement to confer, for a decision, opinion, recommendation, vote, or exercise of discretion as a public servant. Tex. Penal Code Ann. § 36.02.
Utah	A lobbyist, principal, or government officer may not make or offer to make aggregate daily expenditures that exceed $50 for food or beverage, the food reimbursement rate, or $10 for expenditures other than food or beverage. Utah Code Ann. § 36-11-304. It is an offense for a public officer or employee to receive, accept, take, seek, or solicit a gift of substantial value or a substantial economic benefit tantamount to a gift that would tend improperly to influence a reasonable person in the position of rewarding for official action taken or if the officer or employee may be reasonably in a governmental action directly affecting the donor or lender, unless it would cause financial hardship or unless it has been made. Utah Code Ann. § 67-16-5. Definition of "expenditure" includes a gift. Utah Code Ann. § 36-11-102. A lobbyist, principal, or government officer may not make aggregate expenditures that exceed the limits for the following items; if the expenditure is made for a food or beverage; travel; lodging; or admission to a recreational, social or entertainment activity, if not expressly ancillary or if the expenditure is made for a purpose solely unrelated to public office; options on occasional nonpecuniary gift with a value of not in excess of $50; an award publicly presented in recognition of public service; any bona fide loan made in the ordinary course of business; or a political contribution otherwise reported. Utah Code Ann. § 67-16-5. "Expenditure" includes a gift. "Gift" means a political contribution; anything of value bestowed for less than fair consideration; a meal or alcoholic beverage; a ticket, fee, or expenses for or to any sporting, recreational, or entertainment events; a speaking fee or honorarium, except actual and reasonable travel expenses; a loan made on terms more favorable than those made generally available to the public in the normal course of business. Vt. Stat. Ann. tit. 2, § 261.
Vermont	Prohibited conduct includes a legislator or administrative official soliciting a gift, other than a contribution, from a lobbyist, employer or lobbyist employer or nonprofit charitable contributions. Vt. Stat. Ann. tit. 2, § 261. Subject to lobbyist expenditure reporting requirements under Vt. Stat. Ann. tit. 2, § 264.
Virginia	May not accept a gift with an intent or attempt to influence the performance of official duties or accept a gift from a person with interests substantially affected by the performance of official duties. Va. Code Ann. § 30-103. No legislator or any family member may accept gifts with an aggregate value in excess of $100 per year from any person with a value of less than $20 from counting toward the $100 limit. Also excluded from the $100 limit are meals while in attendance at an associated widely attended event, or a travel-related gift upon disclosure and prior approval. Va. Code Ann. § 30-103.1.
Virgin Islands	No prohibition specified by statute or Ethics Regulations, which were not reviewed for the purposes of this survey; may provide for restrictions.
Washington	No state officer or employee may not solicit, accept, take, seek, or solicit, any thing of economic value as a gift, gratuity, or favor from a person if it could reasonably be expected to influence the vote, action, or judgment of the officer or employee, or be considered by the officer or employee as a reward for action or inaction. Wash. Rev. Code Ann. § 42.52.140. May not accept gifts with an aggregate value in excess of $50 from a single source in a year or a single gift from multiple sources with a value in excess of $50. Wash. Rev. Code Ann. § 42.52.150.
West Virginia	A public official or employee may not solicit any gift unless the solicitation is for a purpose with no resulting direct pecuniary benefit conferred upon the public official or employee solicited from any person who is also an official or employee of the state and whose position is subordinate to the soliciting official or employee. No official or employee may accept any gift from a lobbyist or from whom; is doing or seeking to do business of any kind with his or her agency; is interested in activities regulated or controlled by his or her agency; or has financial interests which may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance of his or her official or official duties. W. Va. Code Ann. § 6B-2-5. Exception: lawful political contributions. W. Va. Code Ann. § 6B-2-5. Presumption of a lawful gift that does not impair independent judgment for: meals and beverages; ceremonial gifts or awards with insignificant monetary value; unsolicited gifts of nominal value; reasonable expenses for attending a meeting at which the official or employee participates; tickets or free admission to attend charitable, cultural, or political events if governmental and private gifts, gifts from household or family members. Upon prior approval, may solicit contributions to tax-exempt organization function to be held in the state for the purpose of defraying state costs for hosting governmental associations and bipartisan regional or national organizations in which the joint Committee on Government and Finance makes payment of dues or other membership fees for the Legislature's participation and which assist this and other state agencies and their staff. W. Va. Code Ann. § 6B-2-5.
Wisconsin	No person may offer or give to a state public official, and no state public official may solicit or accept anything of value if it could reasonably be expected to influence the state public official's vote, official action or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the state public official. This subsection does not prohibit a state public official from engaging in outside employment. No state public official may use his or her position or office to obtain financial gain or promotion of a substantial value for private business. Wis. Stat. Ann. § 19.45. No public official, member or employee shall use office or position for the receipt of a gift which resulted from his holding that office. Wys. Stat. Ann. § 9-13-103. "Anything of value" means any money or property, favor, service, etc., but does not include campaign contributions, expenses paid by the state, fees and expenses permitted and reported, reported political contributions, hospitality extended for a purpose unrelated to state business by a person other than a lobbyist. Wis. Stat. Ann. § 19.42. "Gift" means the payment or receipt of anything of value without valuable consideration. Wis. Stat. Ann. § 19.42.
Wyoming	"Gift" means anything of value to the extent that consideration of equal or greater value is not received. Exceptions: Printed informational, educational or promotional material. An unused gift returned to the donor or a charity within 30 days; a device or interchange from a family member or personal friend or business relationship unrelated to business, separate from public position, or from any person if of nominal value; A certificate, commemorative token or item, or plaque with a value that does not exceed $250.00; Food and beverage; Compensation and reimbursement for performance of services for the governmental entity; Any loan, gift, gratuity, special discount, service or favor of a value of $250.00 or less; Travel, registration and lodging for any conference or meeting while attending in an official capacity. Wyo. Stat. Ann. § 9-13-102.

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SUMMARY OF STATE GIFTS and GIFTS DISCLOSURE LAWS[1]

Gifts from Lobbyists to Legislators

Laws specifically allow limited gifts from lobbyists: Over 30 states

Dollar value limits on gifts from lobbyists:

- Permissible if under $25: 9 states
- Permissible if under $50: 6 states
- Permissible if under $100: 3 states
- Permissible in greater amounts: 6 states

Aggregate monthly or yearly limits on gifts from a single donor:

- Permissible if under $25/month: 2 states
- Permissible if under $50/year: 2 states
- Permissible if under $100/year: 3 states
- Permissible if under $250/year: 1 state
- Permissible if under $400/year: 1 state
- Permissible if under $500/year 1 state
- Permissible if under $1000/year: 1 state

Other restrictions on gifts from lobbyists:

- Permissible if received as a result of lobbying activities properly disclosed: 1 state

[1] This summary is based upon information published by the National Conference of State Legislatures: **Legislator Gift Restrictions** (Sept. 13, 2021): https://www.ncsl.org/research/ethics/50-state-table-gift-laws.aspx; and **Gift and Honoraria Disclosure Requirements** (March 2, 2018): https://www.ncsl.org/research/ethics/personal-financial-disclosure-gift-and-honoraria.aspx. The number of states reported in the summary are rough counts only.

Food and Beverage Gifts to Legislators

Laws specifically allow food and beverage gifts from lobbyists and others: 18 states

No restrictions on food and beverage gifts: 2 states

Dollar value limits on food and beverage gifts:

- Permissible if under $15: 3 states
- Permissible if under $25 with an annual limit of $150: 1 state
- Permissible if under $50: 1 state
- Permissible if under $50 per year: 1 state

Other restrictions on food and beverage gifts:

- Permissible if connected to official/educational event: 8 states
- Permissible if for immediate consumption or consumed in presence of donor as part of a meal or reception: 6 states
- Permissible to accept meals provided and reported by a lobbyist: 1 state
- Permissible if indigenous food shared as a cultural or social norm: 1 state

Gifts from Other Sources (Non-Lobbyists) to Legislators

Laws that do not contain a dollar amount but prohibit gifts given to improperly influence/for a corrupt purpose/in exchange for official action: 24 states

Dollar value limits on gifts from non-lobbyists:

- Permissible if under $20, with $100/year cap: 1 state
- Permissible if under $50: 4 states
- Permissible if under $40/year: 1 state
- Permissible if under $250/year: 2 states

Laws that specifically allow food and beverage gifts from non-lobbyists:

Dollar value limits on food and beverage gifts from non-lobbyists:

- Permissible if under $15: 1 state
- Permissible if under $50: 1 state

Other restrictions on food and beverage gifts from non-lobbyists:

- Permissible in connection with official/informational event: 5 states
- Permissible when legislature is not in session: 1 state
- Permissible if for immediate consumption: 2 states

All food and beverage gifts are presumed acceptable: 4 states

SUNSHINE LAW MEETING
AGENDA ITEM VI

AKANA v. HAWAII STATE ETHICS COMMISSION AND DANIEL GLUCK, CIVIL NO. 18-1-1019-06 (JHA); AKANA v. HAWAII STATE ETHICS COMMISSION, CIVIL NO. 19-1-0379-03 (JHA); STATE OF HAWAII, ETHICS COMMISSION v. ROWENA AKANA, CIVIL NO. 20-1-0453 (BIA)

Discussion of case status.

The Hawai‘i State Ethics Commission may convene an executive session pursuant to Hawai‘i Revised Statutes section 92-5(a)(4) to consult with the Commission’s attorneys on questions and issues pertaining to the Commission’s powers, duties, privileges, immunities, and liabilities.

No attachments.