

SUNSHINE LAW MEETING
MINUTES OF THE HAWAII STATE ETHICS COMMISSION

STATE OF HAWAII

Date: October 19, 2022

Time: 9:00 a.m.

Location: Held via Zoom video and audio conference

Public Meeting Location

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

Present: State Ethics Commission Members

Wesley F. Fong, Chair (present in conference room)
Harry J. McCarthy, Commissioner (via video conference)
Beverley Tobias, Commissioner (via video conference)

Excused: Reynard D. Graulty, Vice Chair
Robert Hong, Commissioner

State Ethics Commission Staff

Robert D. Harris, Executive Director (present in conference room)
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)

CALL TO ORDER

Chair Fong called the meeting to order at 9:01 a.m. In addition to Chair Fong, Commissioner McCarthy, Commissioner Tobias, and Commission staff were present. All Commissioners and all staff participating via video or audio conference confirmed no one was in the room with them at their respective remote locations.

Chair Fong announced that if the Commission's video conference 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. Chair Fong also announced that if the meeting was continued to a later date or terminated, information about this would be posted on the Commission's website.

Public participant Kai Lorinc introduced herself.

Executive Director Harris introduced Cristina Voroneanu, a professional fellow for the U.S. State Department. Ms. Voroneanu is from Maldoval and is participating in a program to learn about the American system of government. Chair Fong welcomed Ms. Voroneanu.

Due to time constraints, Chair Fong proposed that the Commission first take up Agenda Item No. III. The Commissioners had no objections.

Agenda Item No. III: Update on Commission to Improve Standards of Conduct

Executive Director summarized proposed bills and rule amendments to be submitted to the Commission to Improve Standards of Conduct ("Standards Commission") on October 26, 2022.

Bill Making Appropriations for County Ethics Boards. This bill is based on concerns about limited resources for county ethics boards, particularly on the neighbor islands. The bill provides state funding to increase the capacity of these boards to administer their programs.

Chair Fong said this is an important bill because the neighbor island boards lack manpower and funds to enforce their ethics codes.

Bill Relating to Legislative Allowance. This bill requires legislative allowance expenditures to be posted online. This bill would make it easier for the public to see how legislators are spending their allowance funds.

Bill Relating to Financial Disclosures. Legislators are part-time employees, so many of them have other employment. The current financial disclosure requirements may not capture information about all sources of income. This bill requires legislators to disclose information on their financial disclosures about connections to lobbyists or lobbying organizations to help highlight where conflicts of interests might exist.

Commissioner McCarthy commented that the enforcement of this law may be difficult.

Executive Director Harris said a more aggressive approach would be to make service as a legislator a full-time job and prohibit any outside employment. The proposed bill is a more moderate approach.

Bill Relating to Lobbyists. This bill requires lobbyists to identify by bill number, resolution number, or other identifier, the matters on which they lobby. Currently, lobbyists are required to disclose the areas in which they are lobbying but not specific measures.

Bill Relating to Mandatory Lobbyist Training. This bill requires lobbyists to take a training course once every two years. This is similar to the mandatory training requirement for state employees. The intent is to provide self-directed online training and Zoom training for lobbyists right before the start of the legislative session.

Chair Fong said the Commission's online ethics training program is very clear and succinct. Commissioner Tobias said training for lobbyists is essential and she agreed the training should be simple to follow.

Bill Relating to Nepotism. This bill prohibits legislators and employees from hiring or supervising relatives or household members.

Commissioner McCarthy said this may be the most important issue to be addressed. He said there is a long and difficult history of nepotism in the islands and in many cases, this leads to public corruption. He said he completely supports this bill. Commissioner Tobias said she also supported the bill.

Draft Proposed House and Senate Rules (2023). These proposed amendments to House and Senate Rules address conflicts of interests by legislators. The amendments address concerns that when legislator conflicts of interests are raised, legislators are usually allowed to continue forward despite the potential conflict. The amendments would make recusal from voting or discussions a default option. If there is a dispute about whether a conflict exists, the matter must be addressed by a committee or floor vote.

Executive Director Harris summarized two additional measures. The first measure is a resolution directing the counties to consider whether any improvements are necessary for current ethics programs. The purpose of the resolution is to encourage the counties to see what changes are necessary, similar to what the State is currently doing.

The second measure prohibits lobbyists from giving prohibited gifts to state employees. Chair Fong asked whether there is a \$25 monetary threshold for prohibited gifts. Executive Director Harris said there is not a specific dollar threshold, but there are some exceptions for permissible gifts such as a lei or celebratory plaque.

Commissioner McCarthy said he absolutely approved the bill but believed it would receive stern resistance.

Commissioner Tobias asked whether the bill will also prohibit in-kind services. Executive Director Harris said the definition of a gift is broad and includes services, housing, lodging, etc.

Executive Director Harris stressed that a “gift of aloha” generally means reciprocal gift giving, such as gifts exchanged between neighbors. The bill is not concerned with those kinds of gifts. Rather, the intent of the bill is to go after gifts from lobbyists and others seeking official action from state officials.

Executive Director Harris also summarized proposed measures that are still being worked on. One proposal creates a citizens bill of rights. The proposed rule is intended to express what should be the code of conduct when legislators interact with the public.

Commissioner Tobias made and Commissioner McCarthy seconded a motion to approve the proposed bills for the Standards Commission. The motion carried unanimously (Fong, McCarthy, and Tobias voting).

Agenda Item No. I: Consideration and Approval of the Minutes of the September 21, 2022 Meeting

Commissioner McCarthy made and Commissioner Tobias seconded a motion to approve the minutes of the September 21, 2022, meeting. The motion carried unanimously (Fong, McCarthy, and Tobias voting).

Agenda Item No. II: Executive Director’s Report

Executive Director Harris reviewed the training, guidance, and assignment statistics for August and upcoming trainings for September. He said there was a large increase in the number of employees taking ethics training in September and October. Chair Fong again commented that he found the online training to be very comprehensive.

Ms. Lorinc asked whether the public can view the online training course. Executive Director Harris directed her to the Commission’s website to access the course. Ms. Lorinc thanked the Commissioners and staff for their work.

Executive Director Harris also briefly updated the Commission about an effort to streamline the registration process for lobbyists for both the State and counties.

Chair Fong also informed the Commission that there will be future discussions about holding another ethics conference for the State and all of the counties. Commissioners Tobias and McCarthy said this was an excellent idea.

Agenda Item No. IV: 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)

There was no update on the Akana case.

ADJOURNMENT OF SUNSHINE LAW MEETING

At approximately 9:49 a.m., Commissioner McCarthy made and Commissioner Tobias seconded a motion to adjourn the meeting. The motion carried unanimously (Fong, McCarthy, and Tobias voting).

The meeting was adjourned at 9:49 a.m.

Minutes approved on December 14, 2022.