

SUMMARY OF PROPOSED COMMITTEE DRAFT:

Bill 26 (2022), CD1 RELATING TO GIFTS TO MAYOR, PROSECUTING ATTORNEY, COUNCILMEMBER, AND OFFICER OR EMPLOYEE.

The PROPOSED CD2 makes the following amendments:

- A. Updates the bill to reflect the recodification of Sections 3-8.7 and 3-8.8 of the Revised Ordinances of Honolulu ("ROH") 1990, as Sections 1-19.7 and 1-19.8 of ROH 2021, respectively, including a number of technical and stylistic amendments.
- B. In SECTION 2 of the bill, amends ROH Section 1-19.7 as follows:
 - 1. Adds a definition of "body" to include a City board or commission and the City Council.
 - 2. Adds a definition of "financial relationship with the City." The term is used in the definition of "prohibited source."
 - 3. Adds definitions of "domestic partner," "fiscal year," "lobbying and lobbyist," "person," and "single source."
 - 4. Amends the definition of "negligible value" from "equal to or less than \$25" to "[v]alued at \$50 or less."
 - 5. Amends the definition of "prohibited source" to read as follows:

"Any lobbyist and any person in a current and substantial financial relationship with the city, including persons with current city contracts, commercial leases with the city, and city concessions. The term does not include the employer and employee relationship of a city officer or employee with the city."
 - 6. Changes the prohibition against solicitation, acceptance, or receipt of gifts from a prohibited source to a prohibition against solicitation, acceptance or receipt of gifts from persons who the City officer or employee knows or has reason to know is a prohibited source, and moves the prohibition from subdivision (b)(1) to subsection (e).
 - 7. Adds a new subsection (c) to read as follows:

"(c) A city officer or employee who:

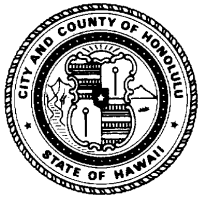
- (1) Has authority to grant or approve any application for a city permit, license, registration, lease, contract, variance, or similar approval;
- (2) Is on an department or agency committee that has such authority or makes a recommendation to an officer or employee with such authority; or
- (3) Is a member of a body with such authority,

may not solicit, accept, or receive, directly or indirectly, a gift from an applicant for such city permit, license, registration, lease, contract, variance, or similar approval, or from a representative or agent of such applicant; provided that this prohibition does not apply if the city officer or employee filed a declaration of conflict of interest with respect to the consideration of the application with the ethics commission or the city clerk, has recused himself or herself from consideration of the application, and takes no action inconsistent with the recusal. This prohibition includes the period during which the application is being considered by the city and two years after the application has been granted, granted with conditions, or denied."

- 8. In subsection (d) (formerly subsection (c)), allows a City officer or employee to receive gifts valued in the aggregate up to \$200 per fiscal year from a single source (excluding gifts covered by subsection (b) and prohibited source gifts). The CD1 would have prohibited acceptance or receipt of gifts except of negligible value (under \$25 in value).
- 9. Adds a new subsection (f) that requires a City officer or employee to file a gift disclosure with the Ethics Commission within 30 days of receiving a gift if the gift is not of negligible value (i.e. its value exceeds \$50) and is not exempted under subsection (g). Where no single gift exceeds \$50 in value, but gifts valued in aggregate from a single source within a fiscal year exceed \$50 in value, the gifts must be reported within 30 days of the end of the fiscal year. Specifies the minimum contents of the disclosures.
- 10. Modifies the list (formerly in subsection (d), now in subsection (g)), of gifts exempted from subsections (d), (e), and (f) as follows:
 - a. In subdivision (2), exempts gifts in trust received from a child, sibling, domestic partner, or civil union partner in addition to those received from a spouse or ancestor.
 - b. Provides in subdivision (3) that the prohibitions under subsections (d) and (e) and the disclosure requirement under subsection (f)

apply to gifts, even if from relatives, if the donor relative is acting as an agent or intermediary for a nonrelative.

- c. Moves the exemption under subdivision (4) for political contributions made in compliance with State law to subsection (h) because such contributions are governed by State law.
 - d. Removes the exemption (former subdivision (8)) for lawful compensation as a city officer or employee, since such compensation is not a "gift."
 - e. Amends exemption (10) (now exemption (8)) to limit exempt condolence and get well gifts to those of negligible value.
 - f. Amends subdivision (11) (now exemption (9)) to exempt "culturally appropriate" lei of "no resale value" (rather than of "negligible" value).
 - g. Amends subdivision (12) (now exemption (10)) to expressly exempt culturally significant items of no resale value.
- C. Adds a new SECTION 4 to the bill, amending ROH Section 3-6.8 ("Training of officers and employees on standards of conduct"), to require the City Ethics Commission to include, in its ethics training program for City officers and employees, material relating to the gift disclosure provisions being added by the bill. Renumbers the bill's subsequent SECTIONS accordingly.
- D. Amends the effective date clause (formerly SECTION 5, now SECTION 6) to provide that, upon taking effect, the ordinance will not apply to gifts solicited, accepted, or received prior to the effective date of the ordinance.
- E. Deletes the "Table of Consanguinity" that was attached to the CD1.
- F. Makes miscellaneous technical and nonsubstantive amendments.



HONOLULU CITY COUNCIL
KE KANIHELA O KE KALANA O HONOLULU
CITY AND COUNTY OF HONOLULU

ORDINANCE _____
BILL **26 (2022), CD2**
PROPOSED

A BILL FOR AN ORDINANCE

RELATING TO GIFTS TO MAYOR, PROSECUTING ATTORNEY, COUNCILMEMBER,
AND OFFICER OR EMPLOYEE.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Policy and purpose. The City and County of Honolulu shall maintain the integrity of its elected and appointed officers and employees and assure the public that such officers and employees are above reproach and not subject to influence by City vendors, clients, or others. They, as agents of public purpose, shall faithfully discharge the duties of their offices regardless of personal considerations and with no expectation of gift, gratuity, reward, or other thing of value, unless exempted. Accordingly, the purpose of this ordinance is to clarify which gifts to the Mayor, the Prosecuting Attorney, Councilmembers, and other City officers and employees may be solicited or accepted.

SECTION 2. Section 1-19.7, Revised Ordinances of Honolulu 2021, is amended to read as follows:

"§ 1-19.7 Gifts to mayor, prosecuting attorney, councilmember, and [appointed] officer or employee—Prohibition under certain circumstances.

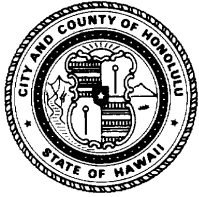
- (a) For the purposes of this section, the following definitions apply unless the context clearly indicates or requires a different meaning.

~~**[Appointed Officer or Employee.** An officer or employee, as defined under §1-19.1, other than an elected officer and shall include officers and employees of the board of water supply and the Honolulu Authority for Rapid Transportation. Appointed officer includes a member of a board or commission including board members of the board of water supply and the Honolulu Authority for Rapid Transportation.]~~

Body. The council, a council committee, or a city board or commission.

Domestic Partner. A person with whom another person maintains a household and an intimate relationship, other than a spouse or a civil union partner.

Financial Relationship with the City. A relationship with the city in which the person with the relationship receives or may receive funds from the city, other than a refund or rebate, or receives or may receive income from third parties as a result of the relationship. The term includes lobbying, but does not include the paying of a city tax,



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parking meter fee, or parking lot fee; obtaining a driver's license or identification card; automobile registration; the purchasing of a ride or pass for travel on the city's transit bus, paratransit, or rail transit system; or a similar minimal contact with the city.

Fiscal Year. The one-year period beginning on July 1 of one calendar year and ending on June 30 of the following calendar year.

Gift. Any gift, whether in the form of money, goods, a service, a loan, travel, entertainment, hospitality, thing[;] of value, favor, gratuity, commission, or promise [or] of a gift in such form or any other form.

Indirectly. Receipt of a gift to a city officer's or employee's spouse, civil union partner, domestic partner, fiancé, fiancée, siblings, children, or parents; spouse's, civil union partner's, or domestic partner's children or parents; or child's or parent's spouse, civil union partner, or domestic partner.

Lobbying and Lobbyist. Have the same meaning as defined in § 3-13.2.

Negligible Value. Valued at \$50 or less.

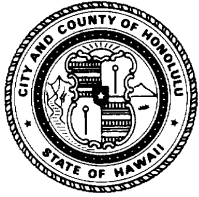
Person. Has the same meaning as defined in § 1-4.1.

Prohibited Source. Any lobbyist and any person in a current and substantial financial relationship with the city, including persons with current city contracts, commercial leases with the city, and city concessions. The term does not include the employer and employee relationship of a city officer or employee with the city.

Single Source. Gifts will be deemed to be from a single source if the city officer or employee soliciting, accepting, or receiving the gifts knows or has reason to know that they are being solicited from or given by owners, partners, officers, directors, lobbyists, representatives, or agents of a single person.

(b) [~~Neither the mayor, the prosecuting attorney, nor any appointed~~] A city officer or employee [shall] may not solicit, accept, or receive, directly or indirectly, any gift under circumstances in which it can be reasonably inferred that the gift is intended:

(1) To influence the solicitor or recipient in the performance of an official duty;
or



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(2) As a reward or gratuity for any official action on the solicitor's or recipient's part.

(c) A city officer or employee who:

(1) Has authority to grant or approve any application for a city permit, license, registration, lease, contract, variance, or similar approval;

(2) Is on an department or agency committee that has such authority or makes a recommendation to an officer or employee with such authority; or

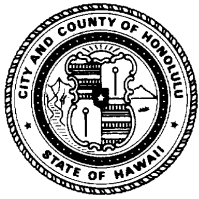
(3) Is a member of a body with such authority,

may not solicit, accept, or receive, directly or indirectly, a gift from an applicant for such city permit, license, registration, lease, contract, variance, or similar approval, or from a representative or agent of such applicant; provided that this prohibition does not apply if the city officer or employee filed a declaration of conflict of interest with respect to the consideration of the application with the ethics commission or the city clerk, has recused himself or herself from consideration of the application, and takes no action inconsistent with the recusal. This prohibition includes the period during which the application is being considered by the city and two years after the application has been granted, granted with conditions, or denied.

[(e)](d) During each [one-year period beginning on July 1 and ending on June 30, neither the mayor, the prosecuting attorney, nor any appointed] fiscal year a city officer or employee [shall] may not solicit, accept, or receive, directly or indirectly, from [any one] a single source, any gift or gifts, not exempted by subsection [(d)], (g), valued [singly or] in the aggregate in excess of \$200.

(e) A city officer or employee may not solicit, and, unless exempted by subsection (g), a city officer or employee may not accept or receive, either directly or indirectly, any gift if the officer or employee knows or has reason to know that it is from a prohibited source. A city officer or employee is deemed to have reason to know that a gift is from a prohibited source if the gift is given, directly or indirectly, from:

(1) Any person registered as a lobbyist under Chapter 3, Article 13; or



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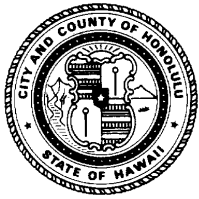
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- (2) Any person who has appeared before the officer or employee or a body of which the officer or employee is a member in connection with the person's financial relationship with the city.
- (f) A city officer or employee who solicits, accepts, or receives, directly or indirectly, a gift not exempted under subsection (g) that exceeds \$50 in value, must file a gift disclosure statement with the ethics commission within 30 days of receipt of the gift. Additionally, a city officer or employee who receives gifts not exempted under subsection (g) from a single source, which in the aggregate exceed \$50 in value during any fiscal year, must file a disclosure within 30 days of the end of the fiscal year.

The disclosure statement must contain, at a minimum, the following information:

- (1) A description of the gifts;
 - (2) A good faith estimate of the value of the gifts;
 - (3) The date on which the gifts were received; and
 - (4) The name of the person from whom, and, if different, on behalf of whom, the gifts were received.
- ~~[(d)]~~(g) Exempted from the ~~[prohibition]~~ prohibitions of ~~[subsection (c)]~~ subsections (d), (e), and (f) are the following:
- (1) Gifts received by will or intestate succession;
 - (2) Gifts received by way of a distribution of any inter vivos or testamentary trust established by a spouse, domestic partner, civil union partner, child, sibling, or ancestor;
 - (3) Gifts from a spouse, domestic partner, civil union partner, fiancé, fiancée, any relative within four degrees of consanguinity, or the spouse, domestic partner, civil union partner, fiancé, or fiancée of such a relative. A gift from any such person ~~[shall not be]~~ is not exempt from ~~[subsection (c)]~~ the prohibitions of subsection (d) or (e) and the disclosure requirement of subsection (f) if the person is acting as an agent or intermediary for any person not covered by this subdivision;



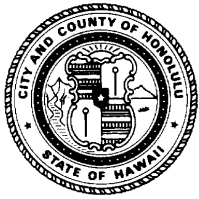
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- ~~[(4)]~~ Political campaign contributions that comply with State law;
- ~~[(5)]~~(4) Anything available or distributed to the public generally without regard to the official status of the recipient;
- ~~[(6)]~~(5) Gifts that, within 30 days after receipt, are returned to the ~~[giver]~~ donor or donated to a public ~~[body]~~ entity or to a bona fide educational or charitable organization without the donation being claimed by the ~~[mayor, the prosecuting attorney, or an appointed]~~ officer or employee as a charitable contribution for tax purposes. In the event the gift is donated to a public ~~[body]~~ entity or to a bona fide educational or charitable organization, the donor ~~[shall]~~ must send, along with the gift, documentation acknowledging the initial ~~[giver]~~ donor of the gift; ~~[and]~~
- ~~[(7)]~~(6) Exchanges of negligible and approximately equal value on holidays, birthdays, or other special occasions~~[-]~~;
- (7) Typical beverages or snacks given when attending a conference or a meeting in an office;
- (8) Items of negligible value customarily given to express condolences or sympathy, such as flowers, food items, or cards, given to an officer or employee in connection with the death or significant injury or illness of the officer or employee or an immediate family member of the officer or employee; provided that such expressions of condolences or sympathy may include monetary gifts of negligible value;
- (9) Culturally appropriate lei of no resale value given at a celebration;
- (10) Awards, plaques, certificates, mementos, novelties, culturally significant items, or similar items of no resale value given in recognition of the recipient officer's or employee's civic, charitable, political, professional, or public service; and
- (11) Gifts received while visiting other cities, counties, states, or countries; or while hosting visitors from other cities, counties, states, or countries when it would be a breach of protocol to refuse the gift presented by representatives of governmental bodies or political subdivisions who are acting in their official capacities.



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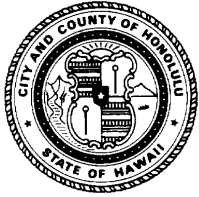
(h) Political campaign contributions permitted by State law are exempt from this section.

~~[(e)](i)~~ A violation of this section by ~~[the mayor, the prosecuting attorney, or an appointed]~~ a city officer or employee ~~[shall be]~~ is punishable in accordance with § 1-19.5."

SECTION 3. Section 1-19.8, Revised Ordinances of Honolulu 2021, is repealed:

~~["§ 1-19.8 Gifts to councilmember—Prohibition under certain circumstances.~~

- ~~(a) No councilmember shall solicit, accept, or receive, directly or indirectly, any gift, whether in the form of money, goods, service, loan, travel, entertainment, hospitality, thing, or promise, or in any other form, under circumstances in which it can be reasonably inferred that the gift is intended to influence the councilmember in the performance of the councilmember's official duties or is intended as a reward for any official action on the councilmember's part.~~
- ~~(b) During each one-year period beginning on July 1 and ending on June 30, no councilmember shall solicit, accept, or receive, directly or indirectly, from any one source any gift or gifts, not exempted by subsection (c), valued singly or in the aggregate in excess of \$200.~~
- ~~(c) Exempted from the prohibition of subsection (b) are the following:~~
- ~~(1) Gifts received by will or intestate succession;~~
 - ~~(2) Gifts received by way of distribution of any inter vivos or testamentary trust established by a spouse or ancestor;~~
 - ~~(3) Gifts from a spouse, fiancé, fiancée, any relative within four degrees of consanguinity of the councilmember or the spouse, fiancé, or fiancée of such a relative. A gift from any such person shall not be exempt from subsection (b) if the person is acting as an agent or intermediary for any person not covered by this subdivision;~~
 - ~~(4) Political campaign contributions that comply with State law;~~
 - ~~(5) Anything available or distributed to the public generally without regard to the official status of the recipient;~~



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- ~~(6) — Gifts that, within 30 days after receipt, are returned to the giver or donated to a public body or to a bona fide educational or charitable organization without the donation being claimed by the councilmember as a charitable contribution for tax purposes. In the event the gift is donated to a public body or bona fide educational or charitable organization, the councilmember shall send, along with the gift, documentation acknowledging the initial giver of the gift; and~~
- ~~(7) — Exchanges of approximately equal value on holidays, birthdays, or special occasions.~~
- ~~(d) — A violation of this section by a councilmember shall be punishable in accordance with § 1-19.5:"]~~

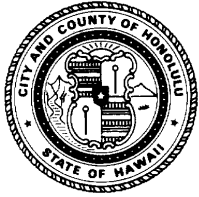
SECTION 4. Section 3-6.8, Revised Ordinances of Honolulu 2021 ("Training of officers and employees on standards of conduct"), is amended by amending subsection (a) to read as follows:

- "(a) Each officer or employee shall complete a training program on the standards of conduct established under Charter Article XI and Chapter 1, Article 19.

For purposes of this section, "officer" includes a person who is an officer due to membership on a board or commission, including the board of water supply and the board of the Honolulu Authority for Rapid Transportation. The term does not include a member of an advisory committee established under the executive branch pursuant to Charter § 4-103 or under the council pursuant to council rule or resolution.

The program shall provide training and information that gives the officer or employee knowledge of at least the following:

- (1) The various standards of conduct applicable to officers and employees, and former officers or employees who appear before the officer's or employee's agency[;] or former agency;
- (2) Actions that officers or employees must or may take to avoid a violation of a standard of conduct;
- (3) Actions that the officer or employee may take when ordered or requested by a superior officer or employee to violate a standard of conduct;



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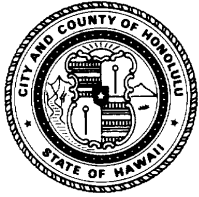
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- (4) Remedies that may be sought by the officer or employee when knowing or suspecting that another person has violated a standard of conduct; and
- (5) Requirements concerning the filing of financial disclosures, gift disclosure statements, and conflict of interest disclosures by officers and employees."

SECTION 5. Ordinance material to be repealed is bracketed and stricken. New material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the Revisor of Ordinances need not include the brackets, the material that has been bracketed and stricken, or the underscoring.



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SECTION 6. This ordinance takes effect upon its approval and does not apply to gifts solicited, accepted, or received prior to the effective date.

INTRODUCED BY:

Tommy Waters (br)

DATE OF INTRODUCTION:

April 12, 2022
Honolulu, Hawai'i

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 20 _____.

RICK BLANGIARDI, Mayor
City and County of Honolulu

Report Title:

Gifts; Gift Disclosures; Councilmembers; Mayor; Prosecuting Attorney; Officers and Employees; Ethics; Prohibited Sources; Lobbyists

Description:

Prohibits, subject to exceptions, gifts in excess of \$200 in any fiscal year to a City officer or employee. Prohibits, subject to exceptions, gifts from prohibited sources to City officers or employees when the recipient knows or has reason to know the gift is from a prohibited source. Prohibits gifts to City officers and employees with authority (or on a body with authority) to grant certain approvals from persons seeking such approvals. Requires, subject to exceptions, filing of a disclosure form with the Ethics Commission for any gift or aggregation of gifts valued in excess of \$50. Requires ethics training for City officers and employees to include training on gift disclosures. Defines "prohibited source."

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.