HONOLULU CITY COUNCIL

KE KANIHELA O KE KALANA O HONOLULU

CITY AND COUNTY OF HONOLULU

ORDINANCE_____

BILL **23 (2024), CD1**

A BILL FOR AN ORDINANCE

RELATING TO GIFTS TO CITY OFFICERS AND EMPLOYEES.

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

SECTION 1. Policy and purpose. The City and County of Honolulu ("City") shall maintain the integrity of its 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 their duties 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 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, and appointed officer or employee~~] **officers and employees—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 financial relationship with the city in which the person with the financial relationship receives or may receive funds from the city, including via current city contracts, commercial leases within the city, and city concessions, or receives or may receive income from third parties as a result of the financial relationship. The term includes lobbying, but does not include the employer and employee relationship of a city officer or employee with the city, nor does it include

financial transactions with the city such as the receipt of a refund or rebate 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.

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

Negligible Value. Valued at $50 or less.

Official Action. A decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

Official Authority. Includes administrative or legislative powers of decision, recommendation, approval, disapproval, or other discretionary action.

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

Prohibited Source. Any lobbyist or any person with a financial relationship with the city to whom subsection (b) applies.

(b) [~~Neither the mayor, the prosecuting attorney, nor any appointed~~] A city officer or employee shall not solicit, accept, or receive, directly or indirectly through a third party, 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~~] that involves the exercise of official authority;

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

(3) To secure for oneself or others any unwarranted privilege, exemption, advantage, contract, or treatment that is not established by law or rule.

A BILL FOR AN ORDINANCE

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

(c) A city officer or employee shall not solicit, and, unless exempted by subsection (d), a city officer or employee shall not accept or receive, either directly or indirectly through a third party, any gift if the city 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 any prohibited source who has appeared before the city officer or employee, or a body of which the city officer or employee is a member, in connection with the prohibited source's lobbying activities, financial relationship with the city, or both.

(d) Exempted from the prohibition of subsection (c) 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 [~~or~~], domestic partner, civil union partner, fiancé, or fiancée, ancestor[~~;~~], any relative within four degrees of consanguinity, or the spouse, domestic partner, civil union partner, fiancé, or fiancée of such a relative;

(3) Gifts from a spouse, domestic partner, civil union partner, fiancé, fiancée, ancestor, 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) 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)~~](4) Anything available or distributed to the public generally without regard to the official status of the recipient;

[~~(6)~~](5) [~~Gifts~~] Unsolicited 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~~] city 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 send, along with the gift, documentation acknowledging the initial [~~giver~~] donor of the gift; [~~and~~]

[~~(7)~~](6) Exchanges of negligible or approximately equal value on holidays, birthdays, or other special occasions[~~.~~];

(7) Typical beverages, meals, or snacks given when attending a conference or a meeting; provided that the value of a meal may exceed a negligible value if the meeting or conference is open to individuals from throughout a given industry or profession, or is attended by individuals who represent a range of persons interested in a given matter;

(8) Items of negligible value customarily given to express condolences or sympathy, such as flowers, food items, or cards, given to a city officer or employee in connection with the death or significant injury or illness of the city officer or employee or an immediate family member of the city officer or employee; provided that such expressions of condolences or sympathy may include monetary gifts of negligible value;

(9) Items customarily given from a single source within a fiscal year that do not exceed the negligible value; provided that items will be deemed to be from a single source if they are being given by owners, partners, officers, directors, lobbyists, representatives, or agents of a single person;

(10) Culturally appropriate lei of no resale value given at a celebration;

(11) Awards, plaques, certificates, mementos, novelties, culturally significant items, or similar non-monetary items of no resale value given in recognition of or in gratitude for the recipient city officer's or employee's civic, charitable, political, professional, or public service; and

(12) Unsolicited 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.

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

[~~(e)~~](f) 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;~~

~~(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. 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.

A BILL FOR AN ORDINANCE

SECTION 5. 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

Esther Kiaʻāina

DATE OF INTRODUCTION:

April 11, 2024
Honolulu, Hawaiʻi

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; Councilmembers; Mayor; Officers and Employees; Ethics; Prohibited Sources; Lobbyists; Persons with a Financial Relationship with the City

Description:
Prohibits City officers and employees from soliciting, accepting, or receiving, directly or indirectly through a third party, any gift under certain circumstances involving an intent to influence the exercise of official authority, reward an official action, or secure certain unwarranted privileges. Prohibits, subject to exceptions, certain gifts from a single source in excess of $50 in the aggregate 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. Defines "official action," "official authority," and "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.