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## Charitable Entities: HIPA, Red Cross... Labor Unions?

By Robert Brown [CONNECT](#) | 03/07/2011

There are some things that appear to be untouchable in the Hawaii Legislature.

One apparently is the idea that lawmakers and state employees should be able to have a free lunch. Dinner, actually.

A Senate committee first tried gutting an ethics reform bill, turning it on its head to make it easier for lawmakers to receive gifts, including tickets to nonprofit dinners.

That bill was eviscerated, but one idea wouldn't die.

On Tuesday, the Senate will vote on an amended bill that would permit lawmakers and state employees to accept free tickets for charitable events from a "charitable entity."

At least one open government group, Common Cause Hawaii, says the bill has "serious issues".

"The new SD 1 allows legislators and employees to accept invitations and tickets for charitable events from a 'charitable entity,' whether or not that entity is the host of the event," Common Cause Hawaii's Executive Director Nikki Love told Civil Beat in an e-mail. "The new bill defines 'charitable entity' to include a wide range of IRS categorizations, 501(c)(3) through 501(c)(6). This includes much more than what is normally considered a 'charitable' organization - for example, these categories



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include chambers of commerce and labor unions."

Love said the new SD 1 would create a large [loophole](#) in Hawaii's gift laws.

"We are asking legislators to reinstate the original SB 671 as it was introduced," Love wrote. "That bill hasn't even been really discussed. The original SB 671 would improve disclosure of financial interests, gifts/events, campaign donations and lobbying expenses. Those changes would shed more light on potential conflicts of interest and undue influence."

The original [bill](#), drafted by Sen. Les Ihara to enact [sweeping ethics reform](#) was [amended](#) by Sen. Brickwood Galuteria, who drastically altered its intent.

Galuteria's version would have liberalized gift laws for politicians and state employees, allowing them to accept far more from lobbyists and others who wanted to influence their decisions, [according to Hawaii State Ethics Commission](#) Executive Director Les Kondo.

A representative for Galuteria, Senate Communications Director Jim Boersema, told Civil Beat Monday that Galuteria signed off on the amended bill after a research group compared Hawaii's ethics laws to other states, including Maryland and Alabama. Boersema said State Attorney General David Louie's office also inspected the bill and gave the "OK" before Galuteria pressed on.

At least part of the impetus to draft the initial revision of the bill was a [Kondo opinion](#) that prevented lawmakers from accepting an invitation to a Hawaii Institute for Public Affairs (HIPA) \$200 per person fundraiser.

The HIPA fundraiser was seen by the Ethics Commission as a "gift," one that legislators couldn't accept because "it would be reasonable under the circumstances to infer that the invitation to the dinner is ...intended to influence or reward the legislator."

After hearing testimony March 1 on the Galuteria bill, the Senate Judiciary and Labor Committee [voted unanimously](#) to defeat it and push forward a much narrower version, based in part on Kondo's testimony.

Off the cuff, in his verbal testimony before the vote, Kondo advised the Judiciary Committee that it could revise Hawaii Revised Statute 84-13 to insert language that would address concerns nonprofits like HIPA had regarding events relevant to lawmakers. HIPA President William Kaneko claimed that by not allowing legislators to accept free tickets it would hurt attendance and revenue.

Kondo said an exception might be able to be carved out in the bill to allow charitable organizations to offer free tickets without compromising the gift laws. He specifically mentioned [501\(c\)\(3\)](#) organizations. According to the IRS, these would include groups organized for:

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Lawmakers apparently took Kondo's advice a step further, creating exemptions not just for 501(c)(3) organizations. According to the [amended bill](#) to be considered Tuesday, a "'Charitable entity' means an entity that has received recognition of tax exempt status under section 501(c)(3) through (c)(6) or section 509(a)(1) through (a)(4) of the Internal Revenue Code."

The caveat in the bill is that a "charitable entity" must be holding a "charitable event," which "means a fundraiser sponsored by a charitable entity that is held specifically for the purpose of raising money for a specific beneficial purpose."

[501\(c\)\(4\)](#), [501\(c\)\(5\)](#) and [501\(c\)\(6\)](#) categories include civic leagues and social welfare organizations, agricultural and horticultural organizations, business leagues and labor organizations.

[509\(a\)\(1\)](#) through [\(a\)\(4\)](#) include churches, schools, hospital or medical research organizations and endowment funds operated for the benefit of certain state and municipal colleges and universities.

In an interview with Civil Beat, Kondo stressed his suggestion to the committee was ad hoc. He said he did not have a full grasp of all tax-exempt IRS classifications when he spoke.

"With respect to the nonprofits and not knowing, or not educated enough or knowledgeable enough to know all the different kinds of nonprofits, I was talking probably about the things that are 501(c)(3) corporations," Kondo said. "I'm not knowledgeable enough to understand specifically what a 501(c)(6) or a 501(c)(4) or what the differences are. I know they have the ability to lobby more."

Kondo acknowledged that he was probably referring to what would generally be considered a charitable organization - for example, he listed the Blood Bank, the Rehabilitation Hospital of the Pacific and Make-a-Wish Foundation.

"The ones that stand out to me as being important to the state," Kondo said. "The ones that do some very admirable work for everybody in the state. Those are the ones I was thinking of and those are the ones people were most vocal about."

Ultimately, he said the size of the exemption the Legislature chooses to enact is its own prerogative. "That's a policy call. That's not my call," Kondo said.

Under the amended bill, which would still have to be considered by the House if approved by the Senate Tuesday, the [Hawaii Government Employees Association](#) and the [Chamber of Commerce of Hawaii](#) would be considered charitable organizations.

And they could buy tickets for politicians or state employees for other charitable organizations' fundraisers.

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**DISCUSSION:** *What do you think of the new SD 1? Should lawmakers and state employees be allowed to accept free event fundraiser tickets from labor unions and business leagues? [Share your thoughts](#)*

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