

Hawaii Lawmakers Aim to Dilute Gift Rules — Again

Latest pushback against Ethics Commission: change the law.

FEBRUARY 7, 2012 • By Nanea Kalani  

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can accept certain gifts, a handful of Hawaii lawmakers recently decided to go over his head. They lobbied the Ethics Commission chairwoman behind closed doors.

The unusual appeal highlights the disdain some lawmakers have had for the past year with Executive Director [Les Kondo](#)'s hard-line stance on accepting meals and gifts. Some legislators have not been shy about sending emails to lobbyists or otherwise voicing their annoyance about how Kondo's rulings are affecting their customary way of doing things.

“YOU HAVE DONE NOTHING ILLEGAL!” one lawmaker wrote to a lobbyist after having to give back a gift-pack of wine valued at \$55.

Lawmakers' latest pushback has culminated in legislation to change or clarify the [Ethics Code](#), including a move that would allow lawmakers to accept tickets to charitable fundraisers, regardless of value.

Under [House Bill 2457](#) — introduced as part of Gov. [Neil Abercrombie](#)'s legislative package — the charity giving the ticket does not have to be the event host, meaning a nonprofit lobbyist could buy the tickets and give them to lawmakers. The bill defines a charity as basically any organization that has been granted tax-exempt status. That could include nonprofits and some business groups.

The bill lifts restrictions on invitations or free tickets under the Ethics Code offered by

nonprofits. Lawmakers would still be required to report the gift, although reporting is required only once a year after the session is over.

The House Judiciary Committee took up the measure last week, but deferred decision-making until Thursday.

On the surface, the idea of attending charitable fundraisers for free may seem harmless. But when those same charities lobby the Legislature or bid for competitive state contracts or grants, that's where the Ethics Commission sees a problem.

“Not all charities are made equal; a lot of charities lobby and get state contracts,” Kondo told Civil Beat. “When it comes to charity fundraisers — just because it's a fundraiser doesn't mean it's a less extravagant event.”

He cited more than a dozen examples of nonprofits that reported lobbying expenditures with the commission over the past year [in his written testimony](#) opposing the bill. Those included the American Heart Association, the American Cancer Society, the Nature Conservancy, Hawaiian Humane Society, Kanu Hawaii, and The Outdoor Circle, among others. Recently, the Hawaii Farm Bureau and the Hawaii Crop Improvement Association, both nonprofits, [ran afoul of Kondo](#) and the Ethics Code when they invited lawmakers to attend the “Taste of Ag” event, prompting much of the current debate.

“This bill will allow legislators to accept invitations and free tickets of unlimited value from these lobbying organizations, invitations and tickets which clearly would be prohibited from for-profit organizations engaged in substantively identical lobbying activities,” Kondo wrote. “In such circumstances, it is reasonable to infer — as the Ethics Commission has opined — that the charitable organization is offering the free fundraiser ticket, is inviting the legislator or state employee to the fundraiser to influence or reward official action.”

Under current rules, gifts of any value are prohibited if it's obvious the gift is intended to influence or reward the lawmaker.

The Ethics Commission has said legislators cannot accept invitations to food-and-beverage-type events where the fair market value to attend is more than \$25. The

exception is if there is a “reasonable and clear state purpose associated with the state employee’s participation in the event.” Lawmakers and state officials can pay out of pocket to attend such events.

A spokeswoman for Abercrombie said “the governor is seeking clarification to address community issues as well as ensuring transparency.”

Last session, lawmakers [made a similar push](#) to remove gift limits following Kondo’s guidance that they couldn’t accept gifts of \$200-per-person tickets to a Hawaii Institute for Public Affairs (HIPA) fundraiser. William Kaneko, HIPA’s president and CEO, was Abercrombie’s campaign manager and now one of his close advisors. That bill — which came to be known as the “gift’s bill” — [ultimately stalled](#).

“It’s the gift bill dressed up in different clothes,” Kondo said of HB 2457. “It’s still something that, from the Ethics Commission’s standpoint, is not in line with the purpose of the Ethics Code, which is to preserve public confidence in state government.”

Good-government group Common Cause Hawaii is one of several organizations that [oppose](#) the bill.

“There is nothing preventing legislators and state employees from attending these charitable events on their own dime, just as regular citizens do,” Common Cause Executive Director Nikki Love wrote. “We believe that strong ethics and gifts laws play a critical role in preventing situations of undue influence, promoting fairness in policymaking and implementation, and promoting greater trust in government.”

Some lawmakers have said privately that the cost to attend community events and fundraisers has hindered their participation at charitable events. While lawmakers can use campaign funds to make [limited contributions](#) to charities, the purchase of fundraiser tickets likely wouldn’t be allowed, according to the Hawaii Campaign Spending Commission’s attorney.

“Buying a ticket to an event wouldn’t apply as a donation being made directly to a charitable organization,” said Gary Kam, general counsel for the Campaign Spending Commission. “If they can show us that attending the event is related to their campaign ... then we’d consider that on a case by case basis.”

Kam also noted a 2001 Campaign Spending Commission [advisory opinion](#), which took up the question of whether campaign funds can be used for banquets and golf tournaments — “vehicles often used by charitable or nonprofit organizations as fundraisers.”

“The Commission distinguishes contributions made directly to organizations to be apart from an expenditure that provides candidates or their representative a personal benefit in the form of a meal or activity such as a round of golf. The latter would not be deemed a proper expenditure of campaign funds or surplus campaign funds,” the opinion said.

Most states prohibit their public officials from accepting free tickets or admission to charitable events, [according to](#) The Center for Ethics in Government at the National Conference of State Legislatures, although at least nine states do.

Most of those nine stipulate that the state employee participate in their official capacity. Laws in Connecticut, New York and Maryland only allow complimentary tickets from the primary sponsoring charity.

“The reason there are gift restriction laws is really to prevent a conflict of interest and to make sure that there is no crossover between contributions and the making of public policy,” said Peggy Kerns, director of The Center for Ethics in Government at the NCSL. “It really doesn’t matter if it’s a nonprofit or a for-profit company giving a gift — the concern is whether it may present a legislator with a conflict of interest if something came up for a vote that involved that organization. Avoiding that appearance for the public’s sake is important.”

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**Patricia Blair** · University of Nebraska-Lincoln

Keep up the good work Mr. Kondo and Common Cause. As far as the legislators behaving unethically, throw the bums out!

Like · Reply · 5 · Feb 8, 2012 7:48am

**Olin Lagon** · Honolulu, Hawaii

I don't think lawmakers should be able to accept free admission to charitable events. On the other hand, I think it would be wonderful for lawmakers to take actual tours of nonprofit operations to get a sense for real work getting done.

Like · Reply · 4 · Feb 8, 2012 11:39am

**Zack Kulai** · Los Angeles, California

Getting a free pass to attend fundraising events sponsored by non-profits does nothing at educating legislators on the nature of the businesses of those organizations. If they were reeeeeeally interested in the work of those charitable organizations, they should simply visit the facilities and talk to a few of the clients. Les Kondo should not be overridden by weakening the present laws whenever he makes a ruling that legislators are unhappy with.

Look at the recent reporting by the news media about the governor questioning the decision of one of his appointees at the PUC on a decision to di... [See More](#)

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**TC Lee** · Boston University

What part of ethics and gifts do legislators not understand? They are unbelievable. And they call themselves public servants. LOL. GO HOME already if you don't want to follow basic rules.

Like · Reply · 1 · Feb 11, 2012 11:57am

**TC Lee** · Boston University

"YOU HAVE DONE NOTHING ILLEGAL!" one lawmaker wrote to a lobbyist after having to give back a gift-pack of wine valued at \$55.

LOL! I think this lawmaker has drunk more than his share. Detox time. He/she needs a freebie ethics session with Mr. Les Kondo.

Like · Reply · 3 · Feb 8, 2012 6:31pm

**Herman Prager III** · UC Santa Barbara

In paragraph 3 who is the legislator

Like · Reply · 1 · Feb 9, 2012 9:54am

**Jay Zablan** · James B. Castle High School



Who are the “handful of Hawaii lawmakers recently decided to go over his head and lobbied the Ethics Commission chairwoman behind closed doors.”? Who are the fellow canoeists helping “the lowest rated governor in the nation” paddle his canoe toward the golden ring of Washington-styled “free stuff and influence-peddling”. Inquiring Hawaii voters would like some names to remember.

Like · Reply ·  1 · Feb 10, 2012 1:13pm



TC Lee · Boston University

Jay Zablan Yes. We want names.

Like · Reply ·  1 · Feb 11, 2012 11:58am

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