

Hawaii Legislators Exempt Themselves from State Ethics Code

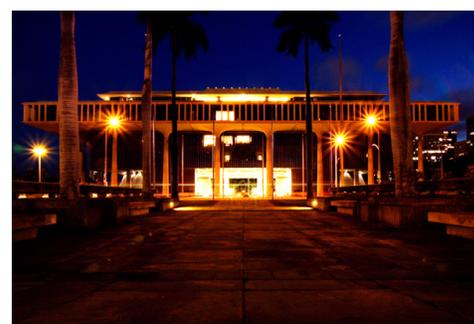
By **Guest Contributor** - March 6, 2013



HAWAII STATE CAPITOL: Photo by Emily Metcalf

BY BARBARA POLK – Last year, the Hawaii State Legislature passed a bill intended to exempt members of temporary task forces from sections of the state ethics code. But in the process, they also exempted themselves from the “fair treatment” section of the code:

“No legislator or employee shall use or attempt to use the legislator’s or employee’s official position to secure or grant unwarranted privileges, exemptions, advantages, contracts, or treatment, for oneself or others”



HAWAII STATE CAPITOL: Photo by Emily Metcalf

HB 2175 (which became Act 208 with the governor’s signature) exempted task force members from these and other provisions—bad enough, since it leaves a wide open door

for favoritism when one industry representative is allowed to benefit from information not available to others. But it also broadened a previous exemption for legislators that applied only when engaged in their legislative functions. Now the exemption applies to anything they do in their role as a legislator.

An example that would have come under scrutiny prior to approval of Act 208 was Maui Senator Josh Green's intervention in a payment dispute between the city and Automated HealthCare Solutions. Although he did not advocate a specific solution, he did call the city offer "unreasonable". Eight days later, Green received a campaign contribution from Automated HealthCare Solutions for \$2000. When the matter became public, Sen. Green donated the money to charity, claiming that he had not intended to be taking the company's side.

However, even if he had intended to influence the decision, that would not have been a violation of the ethics code under Act 208's exemption.

Legislators have claimed that the broadening of the exemption for legislators was a mistake. In this legislative session, Sen. Green submitted SB 669, a simple, straight-forward bill making the correction. Meanwhile, the Ethics Commission submitted four bills—HB209, HB210, SB429 and SB 430--each of which would have eliminated the legislative exemption while making other changes in the code. Les Kondo, Executive Director of the Ethics Commission, spoke with various legislators and staff about the need to pass a bill to correct last year's bill.

But now we are at the mid-point of the legislative session, when bills that have passed three readings in one house move to the other house. Other bills are dead for this session. All five bills that would have corrected last year's mistake failed to meet that deadline and have died—in fact, none of the five even had a hearing before any legislative committee!

So was the exemption of legislators from the "fair treatment" section of the Ethics Code a mistake?

It will be hard to convince the public that legislators have not intentionally widened the arena for corruption in government unless they are able to find another bill amenable to an amendment to correct the "mistake."

Barbara Polk is a board member of Common Cause Hawaii and Americans for Democratic Action/Hawaii and has been active in promoting good government at the legislature for the past several years.

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Guest Contributor

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