

## MISCELLANEOUS

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## CHAPTER 8

### HOLIDAYS AND PERIODS OF RECOGNITION AND OBSERVANCE

**§8-1 Holidays designated.** The following days of each year are set apart and established as state holidays:

- The first day in January, New Year's Day;
- The third Monday in January, Dr. Martin Luther King, Jr., Day;
- The third Monday in February, Presidents' Day;
- The twenty-sixth day in March, Prince Jonah Kuhio Kalaniana'ole Day;
- The Friday preceding Easter Sunday, Good Friday;
- The last Monday in May, Memorial Day;
- The eleventh day in June, King Kamehameha I Day;
- The fourth day in July, Independence Day;
- The third Friday in August, Statehood Day;
- The first Monday in September, Labor Day;
- The eleventh day in November, Veterans' Day;
- The fourth Thursday in November, Thanksgiving Day;
- The twenty-fifth day in December, Christmas Day;
- All election days, except primary and special election days, in the county wherein the election is held;

Any day designated by proclamation by the President of the United States or by the governor as a holiday. [L 1896, c 66, §1; am L 1903, c 55, §1; am L 1911, c 167, §1; am L 1915, c 20, §1; am L 1919, c 54, §1; RL 1925, pt of §146; RL 1935, pt of §21; am L 1941, c 132, pt of

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§1; RL 1945, pt of §21; am L 1945, JR 8, §1; am L 1949, JR 15, §1; am L 1953, c 278, pt of §10; am L 1955, c 9, §1; RL 1955, pt of §1-43; am L 1961, c 116, pt of §1; am L 1965, c 162, §1; HRS §8-1; am L 1969, c 156, §1; am L 1971, c 21, §2; am L 1976, c 220, §2; am L 1978, c 205, §2; am L 1980, c 11, §1; am L 1988, c 220, §1; am L 2001, c 65, §1]

### **Cross References**

*Computation of time, see §1-29.*

### **Rules of Court**

*Computation of time, see DCRCP rule 6; HCTR rule 21; HFCR rule 6; HPR rule 10; HRAP rule 26(a); HRCP rule 6(a); HRPP rule 45(a).*

### **Attorney General Opinions**

*When federal holiday is state holiday. Att. Gen. Op. 85-9.*

### **Case Notes**

*See also note to §1-29.*

*Provision declaring Good Friday as state holiday does not violate First Amendment establishment clause of U.S. Constitution. 932 F.2d 765.*

*Cited: 17 H. 19, 22.*

## **CHAPTER 26 PART I. ORGANIZATION, GENERALLY**

**§26-1 Office of the lieutenant governor.** (a) Except as otherwise provided by law, the lieutenant governor is designated the secretary of state for intergovernmental relations and shall perform the duties and functions heretofore exercised by the secretary of Hawaii. The duties and functions shall include but not be limited to recordation of all legislative and gubernatorial acts, certification of state documents, and maintenance of an official file of rules adopted by state departments as provided in chapter 91. The lieutenant governor may employ staff as necessary without regard to chapter 76.

(b) The lieutenant governor, with the approval of the governor, may designate some other officer of the government of the State to authenticate documents on behalf of the lieutenant governor during the lieutenant governor's temporary absence outside the State or during the lieutenant governor's illness whenever the documents require the signature of the lieutenant governor. The person shall affix the person's own signature to the document with the words, "for the lieutenant governor" following and the signature shall be deemed to satisfy the requirement of the lieutenant governor's signature on the document. The designation and approval shall be in writing and shall be filed in the office of the governor and a copy thereof, certified by the governor, shall be filed with the public archives. The person designated shall serve without additional compensation and the lieutenant governor shall be responsible and liable on the lieutenant governor's official bond for all acts done by the person designated in the performance of the duties on behalf of the lieutenant governor.

(c) Nothing in this section shall be construed to authorize the person to exercise and discharge the powers and duties of the office of the governor as provided by the first paragraph of article V, section 4, of the Constitution of the State of Hawaii. The person shall not be authorized to exercise any powers whenever a successor to the lieutenant governor assumes the duties of the lieutenant governor pursuant to article V, section 4, of the Constitution of the State of Hawaii.

(d) The governor shall identify and direct other duties as necessary to the lieutenant governor.

(e) A lieutenant governor whose legal residence is on an island other than Oahu and who is required to remain away from the island of the lieutenant governor's legal residence but within

the State overnight or longer while on official business shall receive an allowance to cover personal expenses such as board, lodging, and incidental expenses. The allowance authorized under this subsection shall be set at a daily single rate to be determined by a joint agreement between the senate president and speaker of the house of representatives. This rate shall:

- (1) Not exceed the greater of the maximum allowance for such expenses payable to any public officer or employee of the State; and
- (2) Be reasonably calculated to cover the expenses specified in this subsection.

(f) The allowance authorized under subsection (e) shall be in addition to and shall not supplant any portion of the salary of the lieutenant governor determined pursuant to section 26-51. The allowance shall be paid out of any available appropriation made by the legislature for expenses, other than the salary, of the lieutenant governor. [L Sp 1959 2d, c 1, §9; am L 1963, c 30, §1; am L 1965, c 96, §10; Supp, §14A-8; HRS §26-1; am L 1981, c 82, §5; gen ch 1985; am L 1987, c 213, §1; am L 1995, c 151, §2; am L Sp 1995, c 27, §§9, 15; am L 1998, c 137, §3; am L 1999, c 141, §3; am L 2000, c 253, §150; am L 2005, c 147, §1; am L 2013, c 51, §2; am L 2015, C 92, §1]

**§26-2 Order of succession to offices of governor and lieutenant governor. (a)**

When the office of lieutenant governor is vacant by reason of the lieutenant governor's becoming governor, or the lieutenant governor's failure to qualify, or the lieutenant governor's removal from office, death, resignation, or otherwise, the powers and duties of the office of lieutenant governor shall devolve upon the president of the senate; or, if there is none or upon the president's failure to resign promptly from all legislative offices held by the president, then upon the speaker of the house of representatives; or if there is none or upon the speaker's failure to resign promptly from all legislative offices held by the speaker, then upon the attorney general, the director of finance, the comptroller, the director of taxation, and the director of human resources development in the order named; provided that any officer upon whom the powers and duties of the office of lieutenant governor devolve may decline the powers and duties without the officer's resignation from the office by virtue of the holding of which the officer qualifies to act as lieutenant governor, in which event the powers and duties will devolve upon the next officer listed in the order of succession.

(b) When the lieutenant governor is temporarily absent from the State or is temporarily disabled, the powers and duties of the office of the lieutenant governor shall devolve upon the foregoing officers, other than the president of the senate and the speaker of the house, in the order named.

(c) The powers and duties of any officer acting as lieutenant governor under this section shall include the powers and duties of the office of governor when that office is vacant, or when the governor is absent from the State or is unable to exercise and discharge the powers and duties of the governor's office, in addition to the other powers and duties of the lieutenant governor.

No person other than the elected governor or lieutenant governor shall become governor, provision being made by this section only for an acting governor.

(d) An officer succeeding to the powers and duties of the lieutenant governor, under subsection (b) of this section, may designate an officer in the office of the lieutenant governor to perform any or all functions other than those pertaining to the office of governor.

(e) During the period that any officer, under this section is exercising the powers and performing the duties of the office of governor or lieutenant governor by reason of a permanent vacancy therein, and not otherwise, the officer shall receive the compensation and perquisites of the governor or lieutenant governor, as the case may be.

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(f) In a case covered by subsection (a), the taking of the oath of office by an officer, other than a legislative officer required to resign under subsection (a), shall be held to constitute the officer's resignation from the office by virtue of the holding of which the officer qualifies to act as lieutenant governor.

(g) No officer shall act as governor or lieutenant governor under subsection (a) or (b) of this section, unless the officer is eligible to the office of governor under the constitution. No officer other than a legislative officer shall act as governor or lieutenant governor under this section unless the officer has been appointed and confirmed prior to the time the powers and duties of the office of governor or of lieutenant governor devolve upon the officer. No officer shall act as governor or lieutenant governor under this section if the officer is under impeachment at the time the powers and duties of the office of governor or lieutenant governor devolve upon the officer. [L 1965, c 262, §1; Supp, §14A-8.5; HRS §26-2; gen ch 1985; am L 1994, c 56, §21]

### Case Notes

*Section provides order of succession that applies only after respective officers have properly been elected to public office; it does not relieve prospective candidate from compliance with Hawaii constitution, article V, §2 during the qualification and nomination process. 81 H. 230, 915 P.2d 704.*

## PART III. SALARIES, CERTAIN STATE OFFICERS

**§26-51 Governor; lieutenant governor.** Effective at noon on December 4, 2006, the salaries of the governor and the lieutenant governor shall be as last recommended by the executive salary commission. Effective July 1, 2007, and every six years thereafter, the salaries of the governor and lieutenant governor shall be as last recommended by the commission on salaries pursuant to section 26-56, unless rejected by the legislature. [L 1959, c 273, §3; am L 1962, c 28, §23; am L 1965, c 223, pt of §5; Supp, §4A-1; HRS §26-51; am L 1969, c 127, §1; am L 1975, c 58, §5; am L 1982, c 129, §1(1); am L 1986, c 128, §1(1); am L 1989, c 329, §1(1); am L 2003, c 122, §2; am L 2006, c 299, §2]

## CHAPTER 84 STANDARDS OF CONDUCT

### PART I. GENERAL PROVISIONS

**§84-2 Applicability.** This chapter shall apply to every nominated, appointed, or elected officer, employee, and candidate to elected office of the State and for election to the constitutional convention, but excluding justices and judges; provided that in the case of elected delegates and employees of the constitutional convention, this chapter shall apply only to the enforcement and administration of the code of ethics adopted by the constitutional convention. [L 1972, c 163, pt of §1; am L 1979, c 91, §3]

### Case Notes

*Commission has no jurisdiction to continue with charges against employee after employee resigns. 53 H. 373, 494 P.2d 559.*

### PART II. CODE OF ETHICS

**§84-17 Requirements of disclosure.** (a) For the purposes of this section, the terms:

"Disclosure period" refers to the period from January 1 of the preceding calendar year to the time of the filing of the employee's or legislator's disclosure of financial interests.

"Substantially the same" refers to no more than ten amendments or changes to the information reported for the preceding disclosure period.

(b) The disclosure of financial interest required by this section shall be filed:

- (1) By any person enumerated in subsection (c), except a member of the legislature, between January 1 and May 31 of each year;
- (2) By a member of the legislature between January 1 and January 31 of each year;
- (3) Within thirty days of one's election or appointment to a state position enumerated in subsection (c); or
- (4) Within thirty days of separation from a state position if a prior financial disclosure statement for the position was not filed within the one hundred eighty days preceding the date of separation;

provided that candidates for state elective offices or the constitutional convention shall file the required statements no later than twenty days prior to the date of the primary election for state offices or the election of delegates to the constitutional convention.

(c) The following persons shall file annually with the state ethics commission a disclosure of financial interests:

- (1) The governor, the lieutenant governor, the members of the legislature, and delegates to the constitutional convention; provided that delegates to the constitutional convention shall only be required to file initial disclosures;
- (2) The directors and their deputies, the division chiefs, the executive directors and the executive secretaries and their deputies, the purchasing agents and the fiscal officers, regardless of the titles by which the foregoing persons are designated, of every state agency and department;
- (3) The permanent employees of the legislature and its service agencies, other than persons employed in clerical, secretarial, or similar positions;
- (4) The administrative director of the State, and the assistants in the office of the governor and the lieutenant governor, other than persons employed in clerical, secretarial, or similar positions;
- (5) The hearings officers of every state agency and department;
- (6) The president, the vice presidents, assistant vice presidents, the chancellors, and the provosts of the University of Hawaii and its community colleges;
- (7) The superintendent, the deputy superintendent, the assistant superintendents, the complex area superintendents, the state librarian, and the deputy state librarian of the department of education;
- (8) The administrative director and the deputy director of the courts;
- (9) The members of every state board or commission whose original terms of office are for periods exceeding one year and whose functions are not solely advisory;
- (10) Candidates for state elective offices, including candidates for election to the constitutional convention, provided that candidates shall only be required to file initial disclosures;
- (11) The administrator and assistant administrator of the office of Hawaiian affairs; and
- (12) The Hawaii unmanned aerial systems test site chief operating officer.

(d) The financial disclosure statements of the following persons shall be public records and available for inspection and duplication:

- (1) The governor, the lieutenant governor, the members of the legislature, candidates for and delegates to the constitutional convention, the members of the board of

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- education, the trustees of the office of Hawaiian affairs, and candidates for state elective offices;
- (2) The directors of the state departments and their deputies, regardless of the titles by which the foregoing persons are designated; provided that with respect to the department of the attorney general, the foregoing shall apply only to the attorney general and the first deputy attorney general;
  - (3) The administrative director of the State;
  - (4) The president, the vice presidents, the assistant vice presidents, the chancellors, members of the board of regents, and the provosts of the University of Hawaii;
  - (5) The superintendent, the deputy superintendent, the state librarian, and the deputy state librarian of the department of education;
  - (6) The administrative director and the deputy director of the courts;
  - (7) The administrator and the assistant administrator of the office of Hawaiian affairs; and
  - (8) The members of the following state boards, commissions, and agencies:
    - (A) The board of directors of the agribusiness development corporation established under section 163D-3;
    - (B) The board of agriculture established under section 26-16;
    - (C) The state ethics commission established under section 84-21;
    - (D) The Hawaii community development authority established under section 206E-3;
    - (E) The Hawaiian homes commission established under the Hawaiian Homes Commission Act of 1920, as amended, and section 26-17;
    - (F) The board of directors of the Hawaii housing finance and development corporation established under section 201H-3;
    - (G) The board of land and natural resources established under section 171-4;
    - (H) The state land use commission established under section 205-1;
    - (I) The legacy land conservation commission established under section 173A-2.4;
    - (J) The natural area reserves system commission established under section 195-6;
    - (K) The board of directors of the natural energy laboratory of Hawaii authority established under section 227D-2;
    - (L) The board of directors of the Hawaii public housing authority established under section 356D-3;
    - (M) The public utilities commission established under section 269-2; and
    - (N) The commission on water resource management established under section 174C-7."

(e) The information on the financial disclosure statements shall be confidential, except as provided in subsection (d). The commission shall not release the contents of the disclosures except as may be permitted pursuant to this chapter. Any person who releases any confidential information shall be subject to section 84-31(c).

(f) Candidates for state elective offices, including candidates for election to the constitutional convention, shall only be required to disclose their own financial interests. The disclosures of financial interests of all other persons designated in subsection (c) shall state, in addition to the financial interests of the person disclosing, the financial interests of the person's spouse and dependent children. All disclosures shall include:

- (1) The source and amount of all income of \$1,000 or more received, for services rendered, by the person in the person's own name or by any other person for the person's use or benefit during the preceding calendar year and the nature of the services rendered; provided that required disclosure under this paragraph for the income source of the spouse or dependent child of a person subject to subsection (d)

shall be limited to the name of the business or other qualifying source of income, and need not include the income source's address; provided further that other information that may be privileged by law or individual items of compensation that constitute a portion of the gross income of the business or profession from which the person derives income need not be disclosed;

- (2) The amount and identity of every ownership or beneficial interest held during the disclosure period in any business having a value of \$5,000 or more or equal to ten per cent of the ownership of the business and, if the interest was transferred during the disclosure period, the date of the transfer; provided that an interest in the form of an account in a federal or state regulated financial institution, an interest in the form of a policy in a mutual insurance company, or individual items in a mutual fund or a blind trust, if the mutual fund or blind trust has been disclosed pursuant to this paragraph, need not be disclosed;
- (3) Every officership, directorship, trusteeship, or other fiduciary relationship held in a business during the disclosure period, the term of office and the annual compensation;
- (4) The name of each creditor to whom the value of \$3,000 or more was owed during the disclosure period and the original amount and amount outstanding; provided that debts arising out of retail installment transactions for the purchase of consumer goods need not be disclosed;
- (5) The street address and, if available, the tax map key number, and the value of any real property in which the person holds an interest whose value is \$10,000 or more, and, if the interest was transferred or obtained during the disclosure period, a statement of the amount and nature of the consideration received or paid in exchange for such interest, and the name of the person furnishing or receiving the consideration; provided that disclosure shall not be required of the street address and tax map key number of the person's residence;
- (6) The names of clients personally represented before state agencies, except in ministerial matters, for a fee or compensation during the disclosure period and the names of the state agencies involved; and
- (7) The amount and identity of every creditor interest in an insolvent business held during the disclosure period having a value of \$5,000 or more.

(g) Where an amount is required to be reported, the person disclosing may indicate whether the amount is at least \$1,000 but less than \$10,000; at least \$10,000 but less than \$25,000; at least \$25,000 but less than \$50,000; at least \$50,000 but less than \$100,000; at least \$100,000 but less than \$150,000; at least \$150,000 but less than \$250,000; at least \$250,000 but less than \$500,000; at least \$500,000 but less than \$750,000; at least \$750,000 but less than \$1,000,000; or \$1,000,000 or more. An amount of stock may be reported by number of shares.

(h) The state ethics commission shall provide a long form of disclosure on all even-numbered years and a short form of disclosure for subsequent annual filings on all odd-numbered years in those instances where the financial interests of the person disclosing are substantially the same as those reported for the preceding disclosure period.

(i) Failure of a legislator, a delegate to the constitutional convention, or employee to file a disclosure of financial interests as required by this section shall be a violation of this chapter. Any legislator, delegate to a constitutional convention, or employee who fails to file a disclosure of financial interests when due shall be assessed an administrative fine of \$50. The state ethics commission shall notify a person, by registered mail, return receipt requested, of the failure to file, and the disclosure of financial interests shall be submitted to the commission not later than 4:30 p.m. on the tenth day after notification of the failure to file has been mailed to the person. If a

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disclosure of financial interests has not been filed within ten days of the due date, an additional administrative fine of \$10 for each day a disclosure remains unfiled shall be added to the administrative fine. All administrative fines collected under this section shall be deposited in the State's general fund. Any administrative fine for late filing shall be in addition to any other action the commission may take under this chapter for violations of the state ethics code. The commission may waive any administrative fines assessed under this subsection for good cause shown.

(j) The chief election officer, upon receipt of the nomination paper of any person seeking a state elective office, including the office of delegate to the constitutional convention, shall notify the ethics commission of the name of the candidate for state office and the date on which the person filed the nomination paper. The ethics commission, upon the expiration of the time allowed for filing, shall release to the public a list of all candidates who have failed to file financial disclosure statements and shall immediately assess a late filing penalty fee against those candidates of \$25 which shall be collected by the state ethics commission and deposited into the general fund. The ethics commission may investigate, initiate, or receive charges as to whether a candidate's financial disclosure statement discloses the financial interests required to be disclosed. After proceeding in conformance with section 84-31, the ethics commission may issue a decision as to whether a candidate has complied with section 84-17(f) and this decision shall be a matter of public record. [L 1972, c 163, pt of §1; am L 1978, c 245, §4; am L 1979, c 91, §6; am L 1980, c 87, §§1, 2; am L 1985, c 152, §1; gen ch 1985; am L 1989, c 113, §§1, 2; am L 1991, c 150, §1; am L 1993, c 26, §1; am L 1995, c 49, §1 and c 230, §1; am L 1997, c 50, §1; am L 2000, c 297, §18; am L 2003, c 187, §4; am L 2005, c 135, §1; am L 2006, c 207, §2; am L 2007, c 9, §4; am L 2013, c 125, §1; am L 2014, c 230, §2; am L 2015, c 208, §3]

### *Rules of Court*

*Judges, financial disclosures, see RSC rule 15.*

**§235-102.5 Income check-off authorized.** (a) Any individual whose state income tax liability for any taxable year is \$3 or more may designate \$3 of the liability to be paid over to the Hawaii election campaign fund, any other law to the contrary notwithstanding, when submitting a state income tax return to the department. In the case of a joint return of a husband and wife having a state income tax liability of \$6 or more, each spouse may designate that \$3 be paid to the fund. The director of taxation shall revise the individual state income tax form to allow the designation of contributions to the fund on the face of the tax return and immediately above the signature lines. An explanation shall be included which clearly states that the check-off does not constitute an additional tax liability. If no designation was made on the original tax return when filed, a designation may be made by the individual on an amended return filed within twenty months and ten days after the due date for the original return for such taxable year. A designation once made whether by an original or amended return may not be revoked.

(b) Notwithstanding any law to the contrary, any individual whose state income tax refund for any taxable year is \$2 or more may designate \$2 of the refund to be deposited into the school-level minor repairs and maintenance special fund established by section 302A-1504.5, when submitting a state income tax return to the department. In the case of a joint return of a husband and wife having a state income tax refund of \$4 or more, each spouse may designate that \$2 be deposited into the special fund. The director of taxation shall revise the individual state income tax return form to allow the designation of contributions to the special fund on the face of the tax return and immediately above the signature lines. If no designation was made on the original tax return when filed, a designation may be made by the individual on an amended return



filed within twenty months and ten days after the due date for the original return for such taxable year. A designation once made, whether by an original or amended return, may not be revoked.

(c) Notwithstanding any law to the contrary, any individual whose state income tax refund for any taxable year is \$2 or more may designate \$2 of the refund to be paid over to the libraries special fund established by section 312-3.6, when submitting a state income tax return to the department. In the case of a joint return of a husband and wife having a state income tax refund of \$4 or more, each spouse may designate that \$2 be deposited into the special fund. The director of taxation shall revise the individual state income tax form to allow the designation of contributions to the fund on the face of the tax return and immediately above the signature lines. If no designation was made on the original tax return when filed, a designation may be made by the individual on an amended return filed within twenty months and ten days after the due date for the original return for such taxable year. A designation once made, whether by an original or amended return, may not be revoked.

(d) Notwithstanding any law to the contrary, any individual whose state income tax refund for any taxable year is \$5 or more may designate \$5 of the refund to be paid over as follows:

- (1) One-third to the Hawaii children's trust fund under section 350B-2; and
- (2) Two-thirds to be divided equally among:
  - (A) The domestic violence and sexual assault special fund under the department of health in section 321-1.3;
  - (B) The spouse and child abuse special account under the department of human services in section 346-7.5; and
  - (C) The spouse and child abuse special account under the judiciary in section 601-3.6.

When designated by a taxpayer submitting a state income tax return to the department, the department of budget and finance shall allocate the moneys among the several funds as provided in this subsection. In the case of a joint return of a husband and wife having a state income tax refund of \$10 or more, each spouse may designate that \$5 be paid over as provided in this subsection. The director of taxation shall revise the individual state income tax form to allow the designation of contributions pursuant to this subsection on the face of the tax return and immediately above the signature lines. If no designation was made on the original tax return when filed, a designation may be made by the individual on an amended return filed within twenty months and ten days after the due date for the original return for such taxable year. A designation once made, whether by an original or amended return, may not be revoked. [L 1979, c 224, §4; am L 1991, c 112, §1; am L 2001, c 311, §3; am L 2002, c 16, §9; am L 2003, c 193, §2; am L 2004, c 228, §1; am L 2005, c 142, §1; am L 2008, c 244, §34]

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### CHAPTER 264

**§264-6 State highway not to be disturbed without permit.** No person or government agency, whether federal, state, or county, shall, in any manner or for any purpose do any of the following acts without a written permit from the director of transportation or the director's authorized representative:

- (1) Break up, dig up, disturb, undermine or dig under, or cause to be broken up, dug up, disturbed, undermined, or dug under, the right-of-way of any state highway; or
- (2) Place, erect, leave, or store any structure, motor or other vehicle, equipment, or any other object wholly or partially within the right-of-way of any state highway; provided that this paragraph shall not apply to the holding or displaying of movable signs, for the purpose of carrying on political campaign activities. [L 1967, c 163, pt of §2; HRS §264-6; am L 1980, c 146, §1; gen ch 1985]

### CHAPTER 291C

**§291C-77 Pedestrians soliciting rides, business or attention of motorist.** (a) Except as otherwise provided by county ordinance, no person shall stand in, walk along, or otherwise occupy a portion of a highway for the purpose of soliciting a ride, employment, business, or contributions from the occupant of any vehicle.

(b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

[L 1971, c 150, pt of §1; am L 1973, c 216, §2]

#### **Attorney General Opinions**

*Subsection (a) is not unconstitutionally vague. Att. Gen. Op. 75-17.*

#### **Case Notes**

*Subsection (c) violates First Amendment freedom of speech. 516 F.2d 892.*

**CHAPTER 445  
OUTDOOR ADVERTISING**

**§445-112 Where and when permitted.** No person shall erect, maintain, or use a billboard or display any outdoor advertising device, except as provided in this section:

\* \* \*

(11) Signs urging voters to vote for or against any person or issue, may be erected, maintained, and used, except where contrary to or prohibited by law;

\* \* \*

[L 1965, c 233, pt of §1; Supp, §155-121; HRS §445-112; am L 1986, c 245, §1; am L 1987, c 336, §7; am L 1990, c 293, §8; am L 1994, c 118, §1; am L 2003, c 194, §4; am L 2006, c 222, §3]

**Attorney General Opinions**

*Paragraph (11) (prior to 2003 amendment), regulating political signs, was unconstitutional and unenforceable. Att. Gen. Op. 96-4.*

**UNIFORM ACT ON STATUS  
OF CONVICTED PERSONS**

**§831-2 Rights lost.** (a) A person sentenced for a felony, from the time of the person's sentence until the person's final discharge, may not:

- (1) Vote in an election, but if the defendant is placed on probation or the defendant is paroled after commitment to imprisonment, the defendant may vote during the period of the probation or parole; or
- (2) Become a candidate for or hold public office.

(b) A public office held at the time of conviction is forfeited as of the date of the conviction, if the conviction is in this State, or, if the conviction is in another state or in a federal court, as of the date a certification of the conviction from the trial court is filed in the office of the lieutenant governor who shall receive and file it as a public document. An appeal or other proceeding taken to set aside or otherwise nullify the conviction or sentence does not affect the application of this section.

For purposes of this section:

"Public office" means an office held by an elected official, department heads, officers, and members of any board, commission, or other state agency whose appointments are made by the governor, chief justice, office of Hawaiian affairs, or the judicial selection commission, or are required by law to be confirmed by the senate.

"Time of conviction" means the day upon which the person was found guilty of the charges by the trier of fact or determined to be guilty by the court.

(c) Subsections (a) and (b) of this section and any other laws to the contrary notwithstanding, any person convicted of any act, attempt, or conspiracy to overthrow the state or the federal government by force or violence shall not hold any public office or employment. [L 1969, c 250, pt of §1; HRS §716-2; ren L 1972, c 9, pt of §1; am L 1979, c 53, §2; gen ch 1985; am L 2002, c 171, §2; am L 2003, c 150, §3; am L 2006, c 253, §3]

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### *Attorney General Opinions*

*OHA trustees are holders of "public office". Att. Gen. Op. 84-3.*

**§831-3.1 Prior convictions; criminal records; noncriminal standards.** (a) A person shall not be disqualified from public office or employment by the State or any of its branches, political subdivisions, or agencies except under section 831-2(c), or be disqualified to practice, pursue, or engage in any occupation, trade, vocation, profession, or business for which a permit, license, registration, or certificate is required by the State or any of its branches, political subdivisions, or agencies, solely by reason of a prior conviction of a crime; provided that:

\* \* \*

[L 1974, c 205, §2; am L 1975, c 54, §1; am L 1976, c 113, §2; am L 1979, c 53, §3; am L 1985, c 155, §3 and c 209, §8; gen ch 1985; am L 1987, c 339, §4; am L 1989, c 74, §2 and c 116, §1; am L 1993, c 40, §2; am L 2003, c 95, §16(2)]

### *Cross References*

*Employer inquiries into conviction record, see §378-2.5.*

### *Attorney General Opinions*

*Discussion of types of questions which may be asked by various boards and commissions of persons applying for a new or renewed license or certificate. Att. Gen. Op. 89-1.*

### *Case Notes*

*Cited: 10 H. App. 220, 864 P.2d 1109.*