
A BILL FOR AN ACT

RELATING TO CAMPAIGN SPENDING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. Section 11-193, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:
- 3 "(a) The duties of the commission under this subpart are:
- 4 (1) To develop and adopt reporting forms required by this
5 subpart;
- 6 (2) To adopt and publish a manual for all candidates and
7 committees, describing the requirements of this
8 subpart, including uniform and simple methods of
9 recordkeeping;
- 10 (3) To preserve all reports required by this subpart for
11 at least ten years from the date of receipt;
- 12 (4) To permit the inspection, copying, or duplicating of
13 any report required by this subpart pursuant to rules
14 adopted by the commission; provided that no
15 information or copies from the reports shall be sold
16 or used by any person for the purpose of soliciting
17 contributions or for any commercial purpose;



1 (5) To ascertain whether any candidate, committee, or
2 party has failed to file a report required by this
3 subpart or has filed a substantially defective or
4 deficient report, and to notify these persons by first
5 class mail that their failure to file or filing of a
6 substantially defective or deficient report must be
7 corrected and explained. The correction or
8 explanation shall be submitted in writing to the
9 commission not later than 4:30 p.m. on the fifth day
10 after notification of the failure to file or
11 deficiency has been mailed to these persons. The
12 commission shall publish in the newspaper, and on its
13 website, the names of all candidates, committees, and
14 parties who have failed to file a report or to correct
15 their deficiency within the time allowed by the
16 commission. Failure to file or correct a report when
17 due, as required by this subpart, shall result in a
18 penalty of \$50. Failure to respond after a newspaper
19 notification or website publication shall result in an
20 additional penalty of \$50 for each day a report
21 remains overdue or uncorrected. All penalties
22 collected under this section shall be deposited in the



- 1 [~~Hawaii election campaign fund;~~] general fund of the
2 State;
- 3 (6) To hold public hearings;
- 4 (7) To investigate and hold hearings for receiving
5 evidence of any violations;
- 6 (8) To adopt a code of fair campaign practices as a part
7 of its rules;
- 8 (9) To establish rules pursuant to chapter 91;
- 9 (10) To request the initiation of prosecution for the
10 violation of this subpart pursuant to section 11-229;
- 11 (11) To administer and monitor the distribution of public
12 funds under this subpart;
- 13 (12) To suggest accounting methods for candidates, parties,
14 and committees, as the commission may deem advisable,
15 in connection with reports and records required by
16 this subpart;
- 17 (13) To employ or contract, without regard to chapters 76
18 and 89 and section 28-8.3, and, at pleasure, to
19 dismiss persons it finds necessary for the performance
20 of its functions, including a full-time executive
21 director, and to fix their compensation;



- 1 (14) To do random audits[7] and field investigations, as
2 necessary;
- 3 (15) To file for injunctive relief when indicated; and
- 4 (16) To render advisory opinions upon the request of any
5 candidate, candidate committee, noncandidate
6 committee, or other person or entity subject to this
7 chapter, as to whether the facts and circumstances of
8 a particular case constitute or will constitute a
9 violation of the campaign spending laws. If no
10 advisory opinion is rendered within ninety days after
11 all information necessary to issue an opinion has been
12 obtained, it shall be deemed that an advisory opinion
13 was rendered and that the facts and circumstances of
14 that particular case do not constitute a violation of
15 the campaign spending laws. The opinion rendered or
16 deemed rendered, until amended or revoked, shall be
17 binding on the commission in any subsequent charges
18 concerning the candidate, candidate committee,
19 noncandidate committee, or other person or entity
20 subject to this chapter, who sought the opinion and
21 acted in reliance on it in good faith, unless material



1 facts were omitted or misstated by the persons in the
2 request for an advisory opinion."

3 SECTION 2. Section 11-216, Hawaii Revised Statutes, is
4 amended by amending subsection (f) to read as follows:

5 "(f) If the commission renders a final determination of
6 violation, its written decision with findings of fact and
7 conclusions of law may also provide, without limitation the
8 following orders:

- 9 (1) The return of any contribution;
- 10 (2) The reimbursement of any unauthorized expenditure;
- 11 (3) The payment of any administrative fine payable to the
12 [~~Hawaii election campaign fund;~~] general fund of the
13 State;
- 14 (4) Cease and desist violation of this subpart; or
- 15 (5) File any report, statement, or other information as
16 required by this subpart."

17 SECTION 3. Section 11-228, Hawaii Revised Statutes, is
18 amended as follows:

19 1. By amending subsection (a) to read:

20 "(a) In the performance of its required duties, the
21 commission may render a decision or issue an order affecting any
22 person violating any provision of this subpart or section 281-22



1 that shall provide for the assessment of an administrative fine
2 in the manner prescribed as follows:

3 (1) If a natural person [~~an~~] or candidate's committee:

4 (A) An amount not to exceed \$1,000 for each
5 occurrence, for not disclosing the occurrence; or
6 [~~an~~]

7 (B) An amount equivalent to three times the amount of
8 an unlawful contribution or expenditure[~~7~~
9 whichever is greater;] for wilfully not
10 disclosing or failing to correct a violation upon
11 notice by the commission;

12 provided that the commission may impose a fine on the
13 candidate as a natural person or the candidate's
14 committee, but not both; or

15 (2) If a corporation, organization, association, or labor
16 union, it shall be punished by a fine not exceeding
17 \$1,000 for each occurrence[~~7~~ and] provided that a
18 violation of this subpart by

19 [~~(3) Whenever~~] a corporation, organization, association, or
20 labor union [~~violates this subpart, the violation~~]
21 shall also be deemed to be [~~also that~~] a violation of
22 the individual directors, officers, or agents of the



1 corporation, organization, association, or labor
 2 union[7] who have knowingly authorized, ordered, or
 3 done any of the acts constituting the violation.

4 As used in this subsection, "natural person" means a living
 5 human being."

6 2. By amending subsection (d) to read:

7 "(d) Any administrative fine collected by the commission
 8 shall be deposited [~~in the Hawaii election campaign fund.~~] into
 9 the general fund of the State of Hawaii."

10 SECTION 4. Statutory material to be repealed is bracketed
 11 and stricken. New statutory material is underscored.

12 SECTION 5. This Act shall take effect on July 1, 2008.

13

INTRODUCED BY: Kirk Caldwell

Tony Wan

JAN 18 2008



Report Title:

Campaign Spending; Administrative Fines

Description:

Clarifies who is subject to administrative fines for violations relating to campaign contributions and expenditures. Provides for deposit of collected fines into the state general fund.

