
A BILL FOR AN ACT

RELATING TO CAMPAIGN SPENDING.

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

1 SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended
2 by adding a new section to subpart B of part XII to be
3 appropriately designated and to read as follows:

4 "§11- Failure to file report; filing a substantially
5 defective or deficient report. (a) True and accurate reports
6 shall be filed with the commission on or before the due date
7 specified in this subpart. Any committee that is required to
8 file reports under this subpart shall be subject to the
9 penalties in this section if the report is not filed by the due
10 date or if the report is substantially defective or deficient,
11 as determined by the commission.

12 (b) The penalty for not filing a report by the due date
13 shall be \$50 per day for the first seven days, beginning with
14 the day after the due date of the report, and \$200 per day
15 thereafter, not to exceed twenty-five per cent of the total
16 amount of contributions or expenditures, whichever is greater,
17 for the period covered by the report; provided that the minimum



1 penalty for a report filed more than four days after the due
2 date shall be \$200.

3 (c) Subsection (b) notwithstanding, if a candidate's
4 committee does not file the second preliminary primary report or
5 the preliminary general report or if a noncandidate committee
6 does not file the preliminary primary report or the preliminary
7 general report by the due date, the fine shall be \$300 per day,
8 not to exceed twenty-five per cent of the total amount of
9 contributions or expenditures, whichever is greater, for the
10 period covered by the report; provided that the minimum penalty
11 shall be \$300.

12 (d) If the commission determines that a report is
13 substantially defective or deficient, the commission shall
14 notify the candidate's committee by first class mail that:

15 (1) The report is substantially defective or deficient;

16 and

17 (2) A penalty may be assessed.

18 (e) If the corrected report is not filed with the
19 commission's electronic filing system on or before the
20 fourteenth day after the notice of deficiency has been mailed,
21 the penalty for a substantially defective or deficient report
22 shall be \$50 per day for the first seven days, beginning with



1 the fifteenth day after the notice was sent, and \$200 per day
2 thereafter, not to exceed twenty-five per cent of the total
3 amount of contributions or expenditures, whichever is greater,
4 for the period covered by the report; provided that the minimum
5 penalty for not filing a corrected report more than eighteen
6 days after the notice was sent shall be \$200.

7 (f) The commission shall publish on its website the names
8 of all candidate's committees that have failed to file a report
9 or to correct a report within the time allowed by the
10 commission.

11 (g) All penalties collected under this section shall be
12 deposited into the general fund."

13 SECTION 2. Section 11-193, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) The duties of the commission under this subpart are:

16 (1) To develop and adopt reporting forms required by this
17 subpart;

18 (2) To adopt and publish a manual for all candidates and
19 committees, describing the requirements of this
20 subpart, including uniform and simple methods of
21 recordkeeping;



- 1 (3) To preserve all reports required by this subpart for
2 at least ten years from the date of receipt;
- 3 (4) To permit the inspection, copying, or duplicating of
4 any report required by this subpart pursuant to rules
5 adopted by the commission; provided that no
6 information or copies from the reports shall be sold
7 or used by any person for the purpose of soliciting
8 contributions or for any commercial purpose;
- 9 (5) To ascertain whether any candidate, committee, or
10 party has failed to file a report required by this
11 subpart or has filed a substantially defective or
12 deficient report, and to notify these persons by first
13 class mail that their failure to file or filing of a
14 substantially defective or deficient report must be
15 corrected and explained, and that a penalty may be
16 assessed. ~~[The correction or explanation shall be~~
17 ~~submitted in writing to the commission not later than~~
18 ~~4:30 p.m. on the fifth day after notification of the~~
19 ~~failure to file or deficiency has been mailed to these~~
20 ~~persons. The commission shall publish in the~~
21 ~~newspaper, and on its website, the names of all~~
22 ~~candidates, committees, and parties who have failed to~~



1 ~~file a report or to correct their deficiency within~~
2 ~~the time allowed by the commission. Failure to file~~
3 ~~or correct a report when due, as required by this~~
4 ~~subpart, shall result in a penalty of \$50. Failure to~~
5 ~~respond after a newspaper notification or website~~
6 ~~publication shall result in an additional penalty of~~
7 ~~\$50 for each day a report remains overdue or~~
8 ~~uncorrected.] All penalties collected under this~~
9 section shall be deposited in the [~~Hawaii election~~
10 ~~campaign fund,]~~ general fund of the State;

11 (6) To hold public hearings;

12 (7) To investigate and hold hearings for receiving
13 evidence of any violations;

14 (8) To adopt a code of fair campaign practices as a part
15 of its rules;

16 (9) To establish rules pursuant to chapter 91;

17 (10) To request the initiation of prosecution for the
18 violation of this subpart pursuant to section 11-229;

19 (11) To administer and monitor the distribution of public
20 funds under this subpart;

21 (12) To suggest accounting methods for candidates, parties,
22 and committees, as the commission may deem advisable,



1 in connection with reports and records required by
2 this subpart;

3 (13) To employ or contract, without regard to chapters 76
4 and 89 and section 28-8.3, and, at pleasure, to
5 dismiss persons it finds necessary for the performance
6 of its functions, including a full-time executive
7 director, and to fix their compensation;

8 (14) To do random audits [7] and field investigations, as
9 necessary;

10 (15) To file for injunctive relief when indicated; and

11 (16) To render advisory opinions upon the request of any
12 candidate, candidate committee, noncandidate
13 committee, or other person or entity subject to this
14 chapter, as to whether the facts and circumstances of
15 a particular case constitute or will constitute a
16 violation of the campaign spending laws. If no
17 advisory opinion is rendered within ninety days after
18 all information necessary to issue an opinion has been
19 obtained, it shall be deemed that an advisory opinion
20 was rendered and that the facts and circumstances of
21 that particular case do not constitute a violation of
22 the campaign spending laws. The opinion rendered or



1 deemed rendered, until amended or revoked, shall be
2 binding on the commission in any subsequent charges
3 concerning the candidate, candidate committee,
4 noncandidate committee, or other person or entity
5 subject to this chapter, who sought the opinion and
6 acted in reliance on it in good faith, unless material
7 facts were omitted or misstated by the persons in the
8 request for an advisory opinion."

9 SECTION 3. Section 11-195, Hawaii Revised Statutes, is
10 amended to read as follows:

11 "**§11-195 Filing of reports, generally.** (a) All reports
12 required to be filed under this subpart by a candidate or those
13 committees directly associated with the candidate's candidacy
14 shall be certified by the candidate and treasurer. Reports
15 required to be filed under this subpart by a party or committee
16 that supports more than one candidate shall be certified by a
17 person authorized to sign the reports. All reports required to
18 be filed under this subpart shall be open for public inspection
19 in the office of the commission.

20 (b) The original and one copy of all reports required
21 under this subpart shall be filed at the office of the
22 commission. ~~[In the case of counties having less than two~~



1 ~~hundred thousand voters, the filing shall be accomplished by~~
2 ~~filing an original and two copies of the required report with~~
3 ~~either the commission or the clerk of the county in which the~~
4 ~~candidate resides. The clerk shall then immediately mail the~~
5 ~~original and one copy of the report to the commission.]~~

6 (c) The commission [~~or county clerk~~] shall give each
7 person filing a report a receipt stating the type of report
8 filed and the date and time of filing.

9 [~~(d) All reports filed with the county clerk's office shall~~
10 ~~be preserved by that office for four years from the date of~~
11 ~~receipt.]~~

12 [~~(e)~~] (d) All reports required to be filed under this
13 subpart shall at all times be available to the general public.

14 [~~(f)~~] (e) For purposes of this subpart, whenever a report
15 is required to be filed with the commission, "filed" means
16 received in the office of the commission [~~or county clerk,~~
17 ~~whichever is applicable,]~~ by the date and time specified for the
18 filing of the report; except that a noncandidate committee
19 required to be registered with the commission pursuant to
20 section 11-194(d), and a candidate or the committee of a
21 candidate who is seeking election to the:

22 (1) Office of governor;



- 1 (2) Office of lieutenant governor;
- 2 (3) Office of mayor;
- 3 (4) Office of prosecuting attorney;
- 4 (5) County council;
- 5 (6) Senate;
- 6 (7) House of representatives;
- 7 (8) Office of Hawaiian affairs; or
- 8 (9) Board of education,

9 shall file by electronic means in the manner prescribed by the
10 commission.

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

13 "(f) If the commission renders a final determination of
14 violation, its written decision with findings of fact and
15 conclusions of law may also provide, without limitation the
16 following orders:

- 17 (1) The return of any contribution;
- 18 (2) The reimbursement of any unauthorized expenditure;
- 19 (3) The payment of any administrative fine payable to the
20 [Hawaii election campaign fund,] general fund of the
21 State;
- 22 (4) Cease and desist violation of this subpart; or



1 (5) File any report, statement, or other information as
2 required by this subpart."

3 SECTION 5. Section 11-228, Hawaii Revised Statutes, is
4 amended by amending subsection (d) to read as follows:

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

8 SECTION 6. Section 235-102.5, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "**§235-102.5 Income check-off authorized.** (a) Any
11 individual whose state income tax liability for any taxable year
12 is [~~\$2~~] \$3 or more may designate [~~\$2~~] \$3 of the liability to be
13 paid over to the Hawaii election campaign fund, any other law to
14 the contrary notwithstanding, when submitting a state income tax
15 return to the department. In the case of a joint return of a
16 husband and wife having a state income tax liability of [~~\$4~~] \$6
17 or more, each spouse may designate that [~~\$2~~] \$3 be paid to the
18 fund. The director of taxation shall revise the individual
19 state income tax form to allow the designation of contributions
20 to the fund on the face of the tax return and immediately above
21 the signature lines. An explanation shall be included which
22 clearly states that the check-off does not constitute an



1 additional tax liability. If no designation was made on the
2 original tax return when filed, a designation may be made by the
3 individual on an amended return filed within twenty months and
4 ten days after the due date for the original return for such
5 taxable year. A designation once made whether by an original or
6 amended return may not be revoked."

7 SECTION 7. Statutory material to be repealed is bracketed
8 and stricken. New statutory material is underscored.

9 SECTION 8. This Act shall take effect on July 1, 2050.



Report Title:

Campaign Spending; Penalties; Administrative Fines

Description:

Establishes penalties for failing to file and for filing substantially defective or deficient campaign spending reports. Provides for deposit of collected fines and penalties into the state general fund. Increases from \$2 to \$3 the amount of a liability that may be designated on an income tax return to be paid over to the Hawaii election campaign fund. (SB2579 HD1)

