

JAN 18 2008

A BILL FOR AN ACT

RELATING TO CAMPAIGN FINANCING.

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

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

4 "§11-A Reserving use of contributions. A candidate who
5 files the affidavit voluntarily agreeing to limit expenditures
6 and who receives contributions in an amount greater than the
7 expenditure limit for an election shall reserve use of these
8 contributions until after the applicable election.

9 §11-B Failure to file report; filing a substantially
10 defective or deficient report. (a) True and accurate reports
11 shall be filed with the commission on or before the due date
12 specified in this subpart. A committee shall be subject to the
13 penalties specified in this section if a report is not filed by
14 the due date or the report is substantially defective or
15 deficient.

16 (b) The penalty for not filing a report by the due date
17 shall be \$50 per day for the first seven days beginning with the
18 date after the due date of the report and \$200 per day



1 thereafter, not to exceed twenty-five per cent of the total
2 amount of contributions or expenditures, whichever is greater,
3 for the period covered by the report; provided that the minimum
4 penalty for a report filed more than four days after the due
5 date shall be \$200. However, if a candidate committee does not
6 file the second preliminary primary report or the preliminary
7 general report or a noncandidate committee does not file the
8 preliminary primary report or the preliminary general report by
9 the due date, the fine shall be \$300 per day, not to exceed
10 twenty-five per cent of the total amount of contributions or
11 expenditures, whichever is greater, for the period covered by
12 the report; provided that the minimum penalty shall be \$300.

13 (c) If a report is substantially defective or deficient,
14 the commission shall notify candidates and committees by first
15 class mail that:

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

17 and

18 (2) A penalty may be assessed.

19 (d) If the corrected report is not filed with the
20 commission's electronic filing system on or before the
21 fourteenth day after the notice of deficiency has been mailed,
22 the penalty for a substantially defective or deficient report



1 shall be \$50 per day for the first seven days beginning with the
2 fifteenth day after the notice was sent and \$200 per day
3 thereafter, not to exceed twenty-five per cent of the total
4 amount of contributions or expenditures, whichever is greater,
5 for the period covered by the report; provided that the minimum
6 penalty for not filing a corrected report more than eighteen
7 days after the notice was sent shall be \$200.

8 (e) The commission shall publish on its website the names
9 of all candidates and committees who failed to file a report or
10 to correct a report within the time allowed by the commission.

11 (f) All penalties collected under this section shall be
12 deposited in the Hawaii election campaign fund."

13 SECTION 2. Section 11-191, Hawaii Revised Statutes, is
14 amended by:

15 1. Amending the definition of "loan" to read:

16 "'Loan" means an advance of money, goods, or services, with
17 a promise to repay in full or in part within a specified period
18 of time. A "loan" does not include expenditures made on behalf
19 of a committee by a candidate, volunteer, or employee if:

20 (1) A candidate, volunteer, or employee's aggregate
21 expenditures do not exceed \$1,500 within a thirty day
22 period;



- 1 (2) A dated receipt and a written description of the name
2 and address of each payee and the amount, date, and
3 purpose of each expenditure is provided to the
4 committee before the committee reimburses the
5 candidate, volunteer, or employee; and
6 (3) The committee reimburses the candidate, volunteer, or
7 employee within forty-five days of the expenditure
8 being made."

9 2. By amending the definition of "person" to read:

10 ""Person" means an individual, partnership, committee,
11 association, corporation, business entity, organization, or
12 labor union and its auxiliary committees."

13 SECTION 3. 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. The correction or
16 explanation shall be submitted in writing to the
17 commission not later than 4:30 p.m. on the fifth day
18 after notification of the failure to file or
19 deficiency has been mailed to these persons. The
20 commission shall publish in the newspaper, and on its
21 website, the names of all candidates, committees, and
22 parties who have failed to file a report or to correct~~



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

10 ~~(6)]~~ (5) To hold public hearings;

11 ~~[(7)]~~ (6) To investigate and hold hearings for receiving
12 evidence of any violations;

13 ~~[(8)]~~ (7) To adopt a code of fair campaign practices as a
14 part of its rules;

15 ~~[(9)]~~ (8) To establish rules pursuant to chapter 91;

16 ~~[(10)]~~ (9) To request the initiation of prosecution for the
17 violation of this subpart pursuant to section 11-229;

18 ~~[(11)]~~ (10) To administer and monitor the distribution of
19 public funds under this subpart;

20 ~~[(12)]~~ (11) To suggest accounting methods for candidates,
21 parties, and committees, as the commission may deem



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

3 ~~[(13)]~~ (12) To employ or contract, without regard to
4 chapters 76, 78, and 89 and section 28-8.3, and, at
5 pleasure, to dismiss persons it finds necessary for
6 the performance of its functions, including a full-
7 time executive director, and to fix their
8 compensation;

9 ~~[(14)]~~ (13) To do random audits, field investigations, as
10 necessary;

11 ~~[(15)]~~ (14) To file for injunctive relief when indicated;
12 and

13 ~~[(16)]~~ (15) To render advisory opinions upon the request of
14 any candidate, candidate committee, noncandidate
15 committee, or other person or entity subject to this
16 chapter, as to whether the facts and circumstances of
17 a particular case constitute or will constitute a
18 violation of the campaign spending laws. If no
19 advisory opinion is rendered within ninety days after
20 all information necessary to issue an opinion has been
21 obtained, it shall be deemed that an advisory opinion
22 was rendered and that the facts and circumstances of



1 that particular case do not constitute a violation of
2 the campaign spending laws. The opinion rendered or
3 deemed rendered, until amended or revoked, shall be
4 binding on the commission in any subsequent charges
5 concerning the candidate, candidate committee,
6 noncandidate committee, or other person or entity
7 subject to this chapter, who sought the opinion and
8 acted in reliance on it in good faith, unless material
9 facts were omitted or misstated by the persons in the
10 request for an advisory opinion."

11 SECTION 4. Section 11-200, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "§11-200 [~~Campaign~~] Use of campaign contributions [~~+~~
14 ~~restrictions against transfer~~]. (a) A candidate, campaign
15 treasurer, or candidate's committee shall not receive any
16 contributions or receive or make any transfer of money or
17 anything of value:

18 (1) For any purpose other than that directly related:

19 (A) In the case of the candidate, to the candidate's
20 own campaign[+], including fundraising activity
21 and any other politically related activity
22 sponsored by the candidate; or



1 (B) In the case of a campaign treasurer or
 2 candidate's committee, to the campaign of the
 3 candidate, question, or issue with which they are
 4 directly associated; [~~or~~]

5 (2) To support the campaigns of candidates other than the
 6 candidate for whom the funds were collected or with
 7 whom the campaign treasurer or candidate's committee
 8 is directly associated; [~~or~~]

9 (3) To campaign against any other candidate not directly
 10 opposing the candidate for whom the funds were
 11 collected or with whom the campaign treasurer or
 12 candidate's committee is directly associated[~~or~~]; or

13 (4) To make expenditures for personal expenses.

14 (b) Any provision of law to the contrary notwithstanding,
 15 a candidate, campaign treasurer, or candidate's committee [~~as a~~
 16 ~~contribution:~~] may make expenditures from its campaign fund for:

17 (1) [~~May purchase from its campaign fund not~~] Not more
 18 than two tickets for each event held by another
 19 candidate, committee, or party whether or not the
 20 event constitutes a fundraiser as defined in section
 21 11-203;



- 1 (2) ~~[May use campaign funds for any]~~ Any ordinary and
2 necessary expenses incurred in connection with the
3 candidate's duties as a holder of an elected state or
4 county office~~[, as the term is used in section 11-~~
5 206(c)]~~]; [and]~~
- 6 (3) ~~[May make contributions from its campaign fund]~~
7 Donations to any community service, educational,
8 youth, recreational, charitable, scientific, or
9 literary organization; provided that in any election
10 ~~[cycle,~~ period, the total amount of all
11 ~~[contributions]~~ donations from campaign funds ~~[and~~
12 ~~surplus funds]~~ shall be no more than the maximum
13 amount that one person or other entity may contribute
14 to that candidate pursuant to section 11-204(a);
15 provided further that no ~~[contributions from campaign~~
16 ~~funds]~~ donations shall be made from the date the
17 candidate files nomination papers to the date of the
18 general election~~[,];~~
- 19 (4) The purchase or lease of consumer goods, vehicles,
20 equipment, and services that provide a mixed benefit
21 to the candidate. The candidate, however, must
22 reimburse the campaign fund for the candidate's



1 personal use unless the personal use is de minimis;

2 and

3 (5) Contributions to the candidate's party that are not

4 earmarked for another candidate.

5 (c) This section shall not be construed to prohibit a
6 party from supporting more than one candidate.

7 (d) This section shall not be construed to prohibit a
8 candidate for the office of governor or lieutenant governor from
9 supporting a co-candidate in the general election.

10 ~~[(e) This section shall not be construed to prohibit a~~
11 ~~candidate from making contributions to the candidate's party so~~
12 ~~long as that contribution is not earmarked for another~~
13 ~~candidate.]"~~

14 SECTION 5. Section 11-205.6, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§11-205.6 Campaign contributions; loans.** (a) Any loan
17 to a candidate or candidate's committee in excess of \$100 shall
18 be documented and disclosed as to lender, including the lender's
19 name, address, employer, and occupation and purpose of the loan
20 in the subsequent report to the commission. A copy of the
21 executed loan document shall accompany the report. The document
22 shall contain the terms of the loan, including the interest and



1 repayment schedule. Failure to document the loan or to disclose
2 the loan to the commission shall cause the loan to be treated as
3 a campaign contribution, subject to all relevant provisions of
4 this chapter.

5 (b) A candidate or candidate's committee may receive and
6 accept loans in an aggregate amount not to exceed \$10,000 during
7 an election period, provided that if the \$10,000 limit is
8 reached, the candidate or candidate's committee shall be
9 prohibited from receiving or accepting any other loans until the
10 \$10,000 is repaid in full by the candidate or candidate's
11 committee.

12 (c) If any loan made to a candidate is not repaid within
13 one year of the date that the loan is made, the candidate and
14 candidate's committee shall be prohibited from accepting any
15 other loans, and all subsequent contributions received and any
16 surplus retained shall only be expended toward the repayment of
17 the outstanding loan, until the loan is repaid in full by the
18 candidate or candidate's committee.

19 (d) No loan may be accepted or made by noncandidate
20 committees.

21 (e) Any loan by a financial institution regulated by the
22 State or a federally chartered depository institution and made



1 in accordance with applicable law in the ordinary course of
2 business, or a loan by a candidate of the candidate's own funds,
3 or a loan from immediate family members of a candidate using
4 their own funds to the candidate's committee shall not be deemed
5 a contribution and not subject to the contribution limits
6 provided in section 11-204 or the loan limit and repayment
7 provisions of subsection (b) and (c); provided that loans from
8 the immediate family members of the candidate shall remain
9 subject to the provisions in section 11-204(c).

10 (f) For the purposes of this section, a "loan" does not
11 include expenditures made on behalf of a candidate committee by
12 a candidate, volunteer, or employee if:

13 (1) The candidate's, volunteer's, or employee's aggregate
14 expenditures do not exceed \$1,500 within a thirty-day
15 period;

16 (2) A dated receipt and a written description of the name
17 and address of each payee and the amount, date, and
18 purpose of each expenditure is provided to the
19 committee before the committee reimburses the
20 candidate, volunteer, or employee; and



1 (3) The committee reimburses the candidate, volunteer, or
 2 employee within forty-five days of the expenditure
 3 being made."

4 SECTION 6. Section 11-214, Hawaii Revised Statutes, is
 5 amended by amending subsections (c) and (d) to read:

6 "(c) Candidates, and the committees of a candidate who:

7 (1) Are elected to office, may expend [~~surplus~~] campaign
 8 funds pursuant to section [~~11-206~~] 11-200, but under
 9 no circumstances shall expenditures be made from funds
 10 after four years from the date of the election for
 11 which the contributions were received; or

12 (2) Fail to be nominated or elected to office, may expend
 13 [~~surplus~~] campaign funds pursuant to section [~~11-206~~]
 14 11-200 but under no circumstances shall expenditures
 15 be made from funds after one year from the date of the
 16 election for which the contributions were received.

17 Contributions not returned to the donors shall escheat to the
 18 Hawaii election campaign fund.

19 (d) [~~Surplus~~] Campaign funds may be expended by a
 20 candidate for the next subsequent election upon registration for
 21 the election pursuant to section 11-194."



1 SECTION 7. Section 11-206, Hawaii Revised Statutes, is
2 repealed.

3 [~~§11-206 Campaign contributions; restrictions as to~~
4 ~~surplus.~~ (a) ~~Every candidate in a primary, special primary,~~
5 ~~special, or general election who has voluntarily agreed to abide~~
6 ~~by spending limits and who subsequently receives campaign~~
7 ~~contributions in an amount greater than the expenditure limit~~
8 ~~set for the candidate's respective office shall reserve use of~~
9 ~~these contributions until after a general or special election.~~

10 (b) ~~Campaign contributions shall not be used for personal~~
11 ~~expenses or to qualify for public funding in any subsequent~~
12 ~~election, and shall not be transferred to another candidate as~~
13 ~~prohibited in section 11-200.~~

14 ~~Where such contributions are used for the purchase or lease~~
15 ~~of consumer goods, vehicles, equipment, and services that~~
16 ~~provide a mixed benefit to the candidate, they shall be reported~~
17 ~~to the commission pursuant to sections 11-212 and 11-213.~~

18 (c) ~~Surplus funds may be used after a general or special~~
19 ~~election for:~~

20 (1) ~~Any fundraising activity;~~

21 (2) ~~Any other politically related activity sponsored by~~
22 ~~the candidate;~~



1 ~~(3) Any ordinary and necessary expenses incurred in~~
2 ~~connection with the candidate's duties as a holder of~~
3 ~~an elected state or county office; or~~
4 ~~(4) Any contribution to any community service,~~
5 ~~educational, youth, recreational, charitable,~~
6 ~~scientific, or literary organization; provided that in~~
7 ~~any election cycle, the total amount of all~~
8 ~~contributions from campaign funds and surplus funds~~
9 ~~shall be no more than the maximum amount that one~~
10 ~~person or other entity may contribute to that~~
11 ~~candidate pursuant to section 11-204(a); provided~~
12 ~~further that no contributions from campaign funds~~
13 ~~shall be made from the date the candidate files~~
14 ~~nomination papers to the date of the general election.~~

15 ~~(d) All contributions collected pursuant to this section~~
16 ~~shall be reportable under section 11-213-"]~~

17 SECTION 8. This Act does not affect rights and duties that
18 matured, penalties that were incurred, and proceedings that were
19 begun, before its effective date.

20 SECTION 9. If any provision of this Act, or the
21 application thereof to any person or circumstance is held
22 invalid, the invalidity does not affect other provisions or



1 applications of the Act, which can be given effect without the
2 invalid provision or application, and to this end the provisions
3 of this Act are severable.

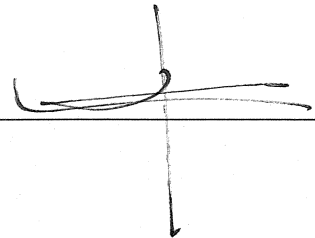
4 SECTION 10. In codifying the new sections added by section
5 1 of this Act, the revisor of statutes shall substitute
6 appropriate section numbers for the letters used in designating
7 the new sections in this Act.

8 SECTION 11. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 12. This Act shall take effect upon its approval.

11

INTRODUCED BY: _____

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By Request



Report Title:

Campaign Financing

Description:

Makes various amendments to the campaign financing law.

