
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 part XII, subpart B, to be
3 appropriately designated and to read as follows:

4 "§11-B 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. A committee shall be subject to the
8 penalties specified in this section if a report is not filed by
9 the due date or the report is substantially defective or
10 deficient.

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



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

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

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

13 and

14 (2) A penalty may be assessed.

15 (d) If the corrected report is not filed with the
16 commission's electronic filing system on or before the
17 fourteenth day after the notice of deficiency has been mailed,
18 the penalty for a substantially defective or deficient report
19 shall be \$50 per day for the first seven days, beginning with
20 the fifteenth day after the notice was sent, and \$200 per day
21 thereafter, not to exceed twenty-five per cent of the total
22 amount of contributions or expenditures, whichever is greater,



1 for the period covered by the report; provided that the minimum
2 penalty for not filing a corrected report more than eighteen
3 days after the notice was sent shall be \$200.

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

7 (f) All penalties collected under this section shall be
8 deposited into the general fund."

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

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

12 (1) To develop and adopt reporting forms required by this
13 subpart;

14 (2) To adopt and publish a manual for all candidates and
15 committees, describing the requirements of this
16 subpart, including uniform and simple methods of
17 recordkeeping;

18 (3) To preserve all reports required by this subpart for
19 at least ten years from the date of receipt;

20 (4) To permit the inspection, copying, or duplicating of
21 any report required by this subpart pursuant to rules
22 adopted by the commission; provided that no



1 information or copies from the reports shall be sold
2 or used by any person for the purpose of soliciting
3 contributions or for any commercial purpose;

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



1 additional penalty of \$50 for each day a report
2 remains overdue or uncorrected. All penalties
3 collected under this section shall be deposited in the
4 [~~Hawaii election campaign fund,~~] general fund of the
5 State;

6 (6) To hold public hearings;

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

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

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

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

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

16 (12) To suggest accounting methods for candidates, parties,
17 and committees, as the commission may deem advisable,
18 in connection with reports and records required by
19 this subpart;

20 (13) To employ or contract, without regard to chapters 76
21 and 89 and section 28-8.3, and, at pleasure, to
22 dismiss persons it finds necessary for the performance



1 of its functions, including a full-time executive
2 director, and to fix their compensation;

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

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

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



1 acted in reliance on it in good faith, unless material
2 facts were omitted or misstated by the persons in the
3 request for an advisory opinion."

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

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

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

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

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



1 SECTION 5. In codifying the new sections added by section
2 1 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 6. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 7. This Act shall take effect upon its approval.



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.

(SB2579 SD1)

