



**STATE OF HAWAII**  
**CAMPAIGN SPENDING COMMISSION**  
235 SOUTH BERETANIA STREET, ROOM 300  
HONOLULU, HAWAII 96813

February 6, 2008

**TO:** The Honorable Brian Taniguchi  
The Honorable Clayton Hee  
Members of the Senate Committee on Judiciary and Labor

**FROM:** Barbara U. Wong, Executive Director *BW*  
Campaign Spending Commission

**SUBJECT: Testimony on S.B. No. 2203, Relating to Campaign Financing**

Wednesday, February 6, 2008  
9:00 a.m. in Conference Room 016

Chair Taniguchi, Vice-Chair Hee, and Members of the Senate Committee on Judiciary and Labor, thank you for the opportunity to testify on this bill.

This bill, which was introduced at the Campaign Spending Commission's ("Commission") request, proposes three changes to the law:

- Increase late filing penalties;
- Clarify treatment of reimbursements; and
- Combines two sections relating to campaign funds.

This bill would take effect on approval.

We urge the Committee to pass the bill.

**Increase the late filing penalties (Section 1 and Section 3 of the bill)**

Under the current law (Section 3), a \$50 fine is imposed if a committee's report is filed late. If the Commission publishes notice in the newspaper and on its website, a committee is also subject to a fine of \$50 for each day that a report remains overdue or uncorrected. While most committees file reports on a timely basis, there are committees that do not file timely reports; this defeats the law's disclosure requirements which are at the heart of the campaign spending law. In order to ensure that all committees file timely reports, this bill (Section 1) proposes to increase the fines.

- The penalty for not filing a report by the due date would increase to \$50 per day for the first seven days beginning with the date after the due date of the report and, thereafter, \$200 per day, not to exceed 25 percent of the total contributions or

expenditures, whichever is greater, for the period covered by the report; provided that the minimum penalty for a report filed more than four days after the due date shall be \$200. However, if a committee does not file the reports due within ten days of an election (the second preliminary primary report or the preliminary general report in the case of a candidate committee; or the preliminary primary report or the preliminary general report in the case of a noncandidate committee) by the due date, the fine shall be \$300 per day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the report; provided that the minimum penalty shall be \$300.

- The bill provides that the Commission shall provide notice of a substantially defective or deficient report. If the corrected report is not filed with the commission's electronic filing system on or before the fourteenth day after the notice of deficiency has been mailed, the penalty for a substantially defective or deficient report shall be \$50 per day for the first seven days beginning with the fifteenth day after the notice was sent and, thereafter, \$200 per day, not to exceed 25 percent of the total contributions or expenditures, whichever is greater, for the period covered by the report; provided that the minimum penalty for not filing a corrected report more than eighteen days after the notice was sent shall be \$200.

#### **Clarify treatment of reimbursements (Sections 2 and 5)**

Under the current law, funds flowing into a committee are reported as a contribution or loan. For example, if a volunteer or the candidate advances funds to make purchases for a committee and wants to be subsequently reimbursed by the committee (rather than making a contribution), the transaction is considered a loan which requires a loan document and multiple postings to the filing system.

This bill proposes that certain reimbursements will not be considered as loans if the aggregate expenditures per individual does not exceed \$1,500 within a thirty-day period and the reimbursement is made within forty-five days.

#### **Combine two sections relating to use of contributions (Sections 4, 6, and 7)**

Under current law, three sections discuss how contributions may be used, with two sections providing mostly overlapping, if not redundant terms.

- HRS §11-200 addresses how contributions may be used before an election.
- HRS §11-206 discusses the use of "surplus funds" after an election.
- HRS §11-214 provides guidelines for the use of contributions after an election pursuant to §11-206.

This bill proposes to amend HRS §11-200 by combining the provisions of HRS §§11-200 and 11-206 to provide simplification and clarity. While HRS §11-206 has its genesis in a law relating to expenditure limits applicable to all candidates (prior to Buckley v. Valeo) various amendments were subsequently enacted that made the section similar to HRS

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§11-200. While there are slight differences, there is no apparent reason to have two laws with different guidelines applicable to contributions before an election and after an election.

There are no substantive changes proposed to HRS §11-214.

Testimony on SB2203 by Americans for Democratic Action, Hawaii, for the hearing on Feb. 6 at 8am before the Senate Committee on the Judiciary and Labor.

TO: Chair Brian Taniguchi  
Senate Committee on Judiciary and Labor

FROM: Barbara Polk, Legislative Chair  
Americans for Democratic Action-Hawaii

SUBJECT: Support for SB 2203 Relating to Campaign Financing

Americans for Democratic Action-Hawaii wishes to express its support for SB 2203, especially section 11-A, which would increase fines for late filing of campaign spending reports.

Compliance with filing requirements and deadlines is currently not particularly good, leaving members of the public without information about the sources of money financing various candidates. Setting progressive levels for fines should help ensure compliance with this important law.

Handwritten notes and signatures in the bottom right corner, including the name "Brian Taniguchi" and a date "2/6/03".