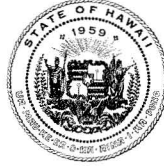


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STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
235 SOUTH BERETANIA STREET, ROOM 300
HONOLULU, HAWAII 96813

March 11, 2008

TO: The Honorable Tommy Waters
The Honorable Blake Oshiro
Members of the House Judiciary Committee

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

SUBJECT: Testimony on S.B. No. 2579, S.D. 2, Relating to a Campaign Spending

Tuesday, March 11, 2008
2:00 p.m. in Conference Room 325

Chair Waters, Vice-Chair Oshiro, and Members of the House Judiciary Committee, thank you for the opportunity to testify on this bill.

This bill proposes to:

- Increase late filing penalties (Section 1); and
- Deposit fines paid for campaign law violations into the general fund (Sections 2, 3, and 4).

This bill would take effect on approval.

Strongly support increase in late filing penalties;¹ but the SD 2 version of the bill should be amended (Section 1 of the bill)

Under the current law (Section 2, pages 4 to 5 of the bill), 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 the filing of timely reports, section 1 of this bill proposes to increase the fines.²

¹ These provisions were included in H.B. No. 2726, which was referred to this Committee, but a hearing on the bill was not scheduled.

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- 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.

Noncandidate committees mistakenly left out

The registration and reporting requirements are applicable to all committees – candidate committees and noncandidate committees. The SD 2 version of the bill that was passed by the Senate Committee on Ways and Means added the word “candidate.” The late report penalties are also applicable to noncandidate committees. We recommend that Section 1, §11- __ (a) of the bill should be amended as follows:

“True and accurate reports shall be filed with the commission on or before the due date specified in this subpart. Any [~~candidate~~] committee that is required to file reports under this subpart shall be subject to the penalties in this section if the report is not filed by the due date or the report is substantially defective or deficient...”

This amendment would reconcile subsection (a) and subsection (b), which refers to noncandidate committees.

² The Commission proposed this amendment in S.B. No. 2203; this amendment was inserted in S.B. No. 2579 by the Senate Committee on Judiciary and Labor.

Additional step is time-consuming for candidates, committees, and the Commission

The current law allows staff to impose the penalties if timely reports are not filed. This SD 2 added a requirement that there be a “determination” before the imposition of the penalties, but does not specify what a “determination” entails. In order to allow for the timely and efficient administration, the practice in the current law allowing staff to impose penalties should be continued. We recommend that Section 1, §11- __ (a) and (c) of the bill should be amended as follows:

(a) True and accurate reports shall be filed with the commission on or before the due date specified in this subpart. Any candidate committee that is required to file reports under this subpart shall be subject to the penalties in this section if the report is not filed by the due date or the report is substantially defective or deficient~~[, as determined by the commission]~~.

...
(c) If ~~[the commission determines that]~~ a report is substantially defective or deficient, the commission shall notify the candidate committee by first class mail that

- (1) The report is substantially defective or deficient; and
- (2) A penalty may be assessed.

Replacement revenue requested (Sections 2, 3, and 4 of the bill)

We are not opposed to the deposit of fines in the general fund if we receive a regular source of funding for the Hawaii Election Campaign Fund in place of fines to avoid the “conflict” that the Commission was previously faced with which required the Commission to request an appropriation from general funds on an annual basis from the same persons that the Commission regulates.

We note that S.B. 2605, S.D.1 was referred to this committee, but a hearing has not been scheduled. This bill increases the check-off on state income tax returns to the Hawaii Election Campaign Fund from \$2 to \$3, and from \$4 to \$6 for joint returns. The bill has a defective effective date – taxable years beginning after December 31, 2050.

BOB JACOBSON

Councilmember

Chair, Environmental Management Committee

Vice-Chair, Finance Committee

Vice-President Hawai'i State Association of Counties



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HAWAI'I COUNTY COUNCIL

County of Hawai'i

March 10, 2008

Committee on Judiciary

Rep. Tommy Waters, Chair

Rep. Blake K. Oshiro, Vice-Chair

And, Members

Hearing Tuesday, March 11, 2008, 2:00 p.m.

Conference Room 325

Re: SB 2579 RELATING TO CAMPAIGN SPENDING

I support Senate Bill 2579. I believe that the State should establish penalties for failing to file or for filing substantially defective or deficient campaign spending reports. Funds collected should be deposited into the state's general fund.

I urge you to pass SB 2579.

Aloha,

A handwritten signature in cursive script that reads "Bob Jacobson".

Bob Jacobson

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