



**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. 2581, Relating to Campaign Spending**

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.

S.B. No. 2581 proposes to increase the reporting threshold for employer and occupation of contributors, by a noncandidate committee ("NCC") with the Campaign Spending Commission ("Commission") and to increase the amounts that a candidate may contribute to community groups. These changes would take effect upon approval. The Campaign Spending Commission is opposed to both changes.

**Oppose an increase in the threshold, for reporting occupation and employer of contributors, from \$100 to \$250. (Section 1 of the bill)**

This bill proposes to amend HRS §11-196.5(a)(14) as follows:

"(14) The name, address, occupation, and employer of each donor who has contributed an aggregate amount of more than [~~\$100~~] \$250 since the last election and the amount and date of deposit of each such contribution."

We are opposed to this amendment:

- The Mission Statement of the Commission is a dedication to the integrity and transparency of the campaign finance process. Increasing the threshold lowers integrity as it eliminates a cross-check on contributors and employers, and it lowers transparency for the public.<sup>1</sup>

<sup>1</sup> "The Hawaii Campaign Spending Commission is dedicated to the integrity and transparency of the campaign finance process." Hawaii Campaign Spending Commission Mission Statement. (2007).

- Many contributions to Noncandidate committees are by members and employees of the sponsoring organization, and by corporations and companies. Occupation and employer designations in these instances are not difficult.

This bill proposes to increase the amounts that a candidate may contribute to community groups and would take effect upon approval. We are opposed to this bill.

**Oppose increasing amounts that may be contributed to community groups from campaign funds. (Section 2 of the bill)**

Campaign funds must be used for a candidate's campaign expenditures; and certain non-campaign expenditures that are permitted under the law.<sup>2</sup>

This bill proposes to amend HRS §11-206(c)(4) as follows:

"(4) Any contribution to any community service, educational, youth, recreational, charitable, scientific, or literary organization; provided that in any election cycle, the total amount of all contributions from campaign funds and surplus funds shall be no more than twice the maximum amount that one person or other entity may contribute to that candidate pursuant to section 11-204(a); provided further that no contributions from campaign funds shall be made from the date the candidate files nomination papers to the date of the general election."

We are opposed to this amendment:

- There is no apparent policy reason to revisit this issue. The Legislature recently considered this issue and in 2000 enacted the current law limiting contributions to community groups.<sup>3</sup>
- The current law was passed because of the perception of a candidate exerting undue influence over community groups because of contributions to the group. These concerns may arise again.
- The Commission's staff reviews candidate reports in the normal course of business. With very few exceptions, candidates do not come close to the contribution limit under the current law.

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<sup>2</sup> In addition to donations to community groups, campaign funds may be used for ordinary and necessary expenses incurred in connection with the candidate's duties as an office holder; political party contributions; and the purchase of two tickets to candidate, committee, or party events, pursuant to HRS section 11-200.

<sup>3</sup> See Act 99, SLH 2000.



# THE LEGISLATIVE CENTER

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February 6, 2008

Testimony To: Senate Committee on Judiciary and Labor  
Senator Brian T. Taniguchi, Chair

Presented By: Tim Lyons, President

Subject: S.B. 2581 – RELATING TO CAMPAIGN SPENDING

Chair Taniguchi and Members of the Committee:

I am Tim Lyons, President of The Legislative Center and we support this bill with some amendments.

Part of our job is to run non-profit trade associations. Some also have Political Action Committees, as non-candidate committees, in order for that industry to participate in the political process. Just as legislators, some of these Political Action Committees hold fundraisers in order to raise money and because contributions to the PAC are a gross amount, with only the left over being available for contributions, there are many instances in which a company might give more than \$1000 to its industry non-candidate committee.

Therefore, we would request an amendment that would pertain to Section 11-204 (b) that would provide "there shall be no limit on contributions or expenditures to the corporation or a non-candidate committee" (delete the word "company" and replace it with "a").

Further, we would like to also see an amendment to Section 11-205.5 as it relates to state and county contractors. There is no doubt that this law was intended to cut back on any undue influence by legislators as it relates to state and county contractors however, it is important to note that almost all of these contracts, particularly as it relates to construction contractors, are done based on low bid. It makes no difference who knows who; you either have the low bid or you don't. Nevertheless, we can understand the concern that some people may have with contributions going directly from state and county contractors to a legislator's re-election campaign fund. We don't think it is proper to totally exclude those contractors from participation and therefore, we would recommend that language be added to 11-205.5 (b) that would read:

"This section does not prohibit or make unlawful the establishment or administration of, solicitation or the making of contributions to any separate segregated fund or non-candidate committee by any state or national bank, corporation, or labor organization for the purpose of influencing the nomination for election or the election of any person to office".

We believe that this change is important because we don't think it is proper to deny participation to these state or county contractors. We would agree that there would be a superficial problem in them making direct contributions. By allowing them to participate and make contributions to a Political Action Committee, which must be reported and disclosed, we allow them the opportunity to participate without creating any undue influence opportunities and it is a transparent action.

Based on these two (2) changes, we can support this bill and would hope that you could pass it with those amendments.

Thank you.

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# **HAWAII ASSOCIATION OF PUBLIC ACCOUNTANTS – PAC**

2145 Wells Street, Suite 402  
Wailuku, Hawaii 96793

## **Before the Committee on Judiciary and Labor**

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

### **Re: Support of SB2581, with amendment** Relating to Campaign Spending

### **Testimony of Marilyn M. Niwao, J.D., CPA**

Chair Taniguchi, Vice-chair Hee, and committee members:

I am a CPA and attorney in the State of Hawaii, and I am the chairperson for the Hawaii Association of Public Accountants - PAC. The Hawaii Association of Public Accountants - PAC was established to assist the legislative efforts of the Hawaii Association of Public Accountants (HAPA). HAPA is the only statewide accounting organization representing local public accounting practitioners (i.e., primarily CPAs and PAs who practice public accounting), with neighbor island chapters in addition to its Oahu Chapter.

SB2581 amends HRS §11-196.5 (pertaining to organizational reports of noncandidate committees) by increasing the threshold aggregate contribution amount from \$100 to \$250 whereby noncandidate committees must report details such as name, address, occupation, and employer of each donor, including the amount and date of deposit of each such contribution.

In order to provide relief to noncandidate committees as this bill apparently envisions, an amendment to increase the threshold amounts from \$100 to \$250 must also be made to HRS § 11-212 (b) (preliminary reports for noncandidate committees), and HRS § 11-213 (b) (final and supplementary reports for noncandidate committees). The suggested amendment to accomplish this is shown as an attachment to this letter.

Why increase the threshold amounts? Our organization is an example of a noncandidate committee. We have over 125 donors to the HAPA-PAC. Each donor understands that donating to a PAC means that his/her donation will be given out to a number of candidates. Therefore, they generally give the suggested amount or more.

If the HAPA-PAC gives money to 10 candidates, for example, a \$100 contribution by a donor to the PAC may mean \$10 given pro-rata to each of the candidates over a reporting period. For a donation of \$250, the pro-rata donation to each candidate would be only \$25 for a reporting period. A good argument could be made that the threshold reporting amount for donations to noncandidate committees should be increased to an even higher amount before triggering detailed reporting of information on donors.

Testimony of Marilyn M. Niwao, J.D., CPA  
In support of SB2581, with amendment  
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The \$100 threshold has been in effect for a number of years, and has not been increased over time to adjust for inflation.

We recognize the desire to have public disclosure of donors to candidates or candidate committees. However, the public disclosure interest should be weighed against the reporting burden for noncandidate committees which may have hundreds of donors who are essentially donating only indirectly to candidates a smaller pro rata amount to each candidate.

Reporting the name, address, employer, occupation, amount donated, and date of deposit when donors give accumulated amounts in excess of \$100 during an election period is overly burdensome when compared to the public disclosure interest. Our organization is comprised of accountants who know very well the administrative burden that is imposed by such a low threshold for reporting this detailed information.

For example, obtaining the employer information for donors giving more than \$100 in an election period involves additional telephone calls since the employer information is not usually disclosed when a donor sends a check. For other noncandidate committees, obtaining the occupation information for each donor may also be a problem.

For the reasons stated above, it is clear that the threshold amount for detailed reporting of donor information should be increased from \$100 to \$250 for donations to noncandidate committees.

With respect to the second part of SB2581, we also support the change to increasing the amount that may be donated from surplus funds to charitable organizations. The additional donation amounts would serve a good cause by benefiting charitable organizations and community interests.

Please support SB2581, with the attached amendment. Thank you for this opportunity to testify. If you have any questions concerning the above, please do not hesitate to contact me at (808) 242-4600, ext. 224.

Respectfully submitted,

*Marilyn M. Niwao*

Marilyn M. Niwao, J.D., CPA (also known as Marilyn Niwao Roberts)  
HAPA-PAC Chairperson

Enclosure

**Testimony of Marilyn M. Niwao, J.D., CPA  
In support of SB2581, with amendment**

**Suggested amendment to SB2581:**

**SECTION 3. Section 11-212, Hawaii Revised Statutes,  
is amended by amending subsection (b) to read as  
follows:**

"(b) Each noncandidate committee shall file a preliminary report with the commission, on forms provided by the commission, no later than 4:30 p.m. on the tenth calendar day prior to each primary election and the tenth calendar day prior to a special or general election. Each report shall be certified pursuant to section 11-195 and shall contain the following information, which shall be current through the fifth calendar day prior to the filing of a preliminary report:

- (1) The aggregate sum of all contributions and other campaign receipts received;
- (2) The amount and date of deposit of the contribution and the name, address, employer, and occupation of each donor who contributes an aggregate of ~~\$100~~ \$250 or more during an election period, which has not previously been reported; provided that if all the information is not on file, the contribution shall be returned to the donor within thirty days of deposit;
- (3) The amount and date of each disbursement or contribution made to a candidate, party, organization, or committee, including the name and address of each payee, which has not previously been reported;
- (4) The amount and date of each expenditure made or incurred by the committee for or against any candidate, ballot issue, or on behalf of another committee, which has not previously been reported; and
- (5) A current statement of the balance on hand."

**Testimony of Marilyn M. Niwao, J.D., CPA  
In support of SB2581, with amendment**

**Suggested amendment to SB2581 (continued)**

**SECTION 4. SECTION 11-213, Hawaii Revised Statutes,  
is amended by amending subsection (b) to read as follows:**

"b) Each noncandidate committee shall file a final primary report, certified pursuant to section 11-195, with the commission on forms provided by the commission no later than 4:30 p.m. on the twentieth calendar day after a primary election. The report shall include the following information, which shall be current through the day of the primary election:

- (1) A statement of the total contributions and campaign receipts received;
- (2) The amount and date of deposit of each contribution and the name, address, employer, and occupation of each donor who contributes an aggregate of more than ~~\$100~~ \$250 during an election, which has not previously been reported;
- (3) The amount and date of each disbursement or contribution made to a candidate, party, organization, or committee, including the name and address of each payee, which has not previously been reported;
- (4) The amount and date of each expenditure made or incurred by the committee for or against any candidate, ballot issue, or on behalf of another committee, which has not previously been reported; and
- (5) A current statement of the balance on hand."

SECTION ~~3~~ 5. New statutory material is underscored.

SECTION ~~4~~ 6. This Act shall take effect upon its approval.



Isaac W. Choy, CPA  
2733 E. Manoa Road  
Honolulu, Hawaii 96822

Before the Committee on Judiciary and Labor  
Wednesday, February 6, 2008 at 9:00am  
Conference Room 016

Support of SB 2581

Chair Taniguchi, Vice Chair Hee and other committee members.

I am testifying in favor of this legislation.

I believe this bill is a good start in allowing candidates more of an opportunity to help their communities.

I would further like to amend this bill to allow unlimited contributions to public schools specifically our elementary, middle, and high school.

Thank you for this opportunity to testify

Respectfully submitted.

Isaac W. Choy, CPA