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HOUSE COMMITTEE ON JUDICIARY

TESTIMONY REGARDING SB 2605, SD1 RELATING TO TAXATION

TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)

DATE: MARCH 13, 2008

TIME: 3:15PM

ROOM: 325

This legislation increases the election fund contribution amount on state income tax returns for campaign spending purposes.

The Committees on Judiciary & Labor and Economic Development & Taxation amended the bill by reducing increased check-off amount from \$5 to \$3.

The Committee on Ways & Means passed this measure unamended.

The Senate passed this measure on third reading.

The Department of Taxation (Department) takes **no position** on this legislation and cites its revenue estimate.

Under current law, a taxpayer may elect on the final page of their Hawaii Net Income Tax return, to designate \$2 of the tax liability as a contribution to the Hawaii Election Campaign Fund. As required by law, the tax forms clearly denote that this contribution does not increase or decrease a person's tax liability. This mechanism serves simply as a person's participation in whether state funds shall be earmarked for campaign purposes.

Assuming this bill was to become effective in FY2009, there is an expected revenue loss of \$93,156 annually. Based on revenue information provided by the Department of Taxation, in FY2006, the election campaign fund generated \$186,312, or 93,156 boxes. The Department assumes the same number of people will contribute to the fund in FY2009.

	Amount Per Check Box	No. of Returns	Amount Collected		
			FY 2007	FY 2006	FY 2005
Hawaii Election Campaign Fund	\$2	91,651	\$220,406	\$186,312	\$220,490

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

March 13, 2008

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

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

SUBJECT: Testimony on S.B. No. 2605, S.D. 1 Relating to Taxation

Thursday, March 13, 2008
3:15 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 amend Hawaii Revised Statutes (HRS) § 235-102.5(a) to increase the check-off on state income tax returns to the Hawaii Election Campaign Fund (Fund) as follows:

"(a) Any individual whose state income tax liability for any taxable year is [~~\$2~~] \$3 or more may designate [~~\$2~~] \$3 of the liability to be paid over to the Hawaii election campaign fund, any other law to the contrary notwithstanding, when submitting a state income tax return to the department. In the case of a joint return of a husband and wife having a state income tax liability of [~~\$4~~] \$6 or more, each spouse may designate that [~~\$2~~] \$3 be paid to the fund..."¹

The bill has a defective effective date; it is applicable to taxable years beginning after December 31, 2050.²

The Campaign Spending Commission ("Commission") supports this bill, which was not submitted by the Commission. The sources of funding (including the check-off) have

¹ This bill as introduced, proposed to increase the check-off amounts to \$5 for individual taxpayers and to \$10 in the case of a joint return.

² The companion bill, H.B. No. 2652, was referred to the House Judiciary Committee and House Finance Committee but a hearing on the bill was not scheduled.

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been decreasing. 2008 is an election year and the Commission anticipates receiving applications from candidates for partial public financing. Moreover, there are various Legislative proposals to decrease sources of funding and allow increased funding requests.

Current law

The income tax check-off for the Fund in HRS § 235-102.5 was enacted in Act 224, Session Laws of Hawaii 1979 (Act 224). The Legislature subsequently added three other check-offs for the school-level minor repairs and maintenance fund,³ the libraries special fund,⁴ and the domestic violence and child-abuse fund.⁵ There is at least one proposal in the 2008 Legislature for another check-off.⁶

The Fund currently provides partial public financing to candidates and the Commission's operating expenses.⁷

The Fund had a balance of \$5,469,345 as of December 31, 2007.

The current sources of funding are:

- The voluntary state income tax return check-off;
- Fines and penalties;
- Interest; and
- Excess, surplus, and anonymous contributions.

The income tax check-off is the primary source of funding. The percentage of taxpayers that use the check-off has steadily declined since the inception of the program in 1979 and currently is less than 15%. The check-off provides funding of approximately \$200,000 per year and dipped below \$200,000 in 2007 for the first time since 1979.

Fines and penalties provided a greater amount of funding in the past, but this source has declined because compliance with laws should have increased.

Interest income in 2007 was about \$232,000, based upon the current 3% rate and the Fund's current balance.

³ Act 311, SLH 2001.

⁴ Act 193, SLH 2003.

⁵ Act 228, SLH 2004.

⁶ H.B. No. 3025 proposes to allow individuals to designate an unspecified amount of their income tax refund to provide funds for the University of Hawaii.

⁷ HRS section 11-217.

Legislative proposal to decrease source of funding

S.B. No. 2579 proposes that fines paid for campaign law violations be deposited into the general fund, rather than the Fund.

Legislative proposals to increase funding requests

- Two bills which carried over from the 2007 Legislative session (S.B. No. 1068, S.D. 1, H.D. 1⁸ and S.B. No.1549⁹) propose to raise the expenditure limits for the first time in twelve years. This will increase the amount of partial public financing available to candidates without creating a second system of public financing.
- H.B. No. 661, H.D. 1, which carried over from the 2007 Legislative session, proposes to add a new subpart to the law relating to “comprehensive public funding” for candidates for the county council
- SB No. 2607 provides full public funding for delegate candidates for the constitutional convention.
- S.B. No. 2617 allows delegate candidates for the constitutional convention to qualify for partial public financing.

⁸ S.B. 1068, S.D.1, H.D. 1 passed both the Senate and House and is presently in Conference.

⁹ S.B. No. 1549 was referred to the Senate Committee on Judiciary and Labor but a hearing on the bill was not scheduled.

JUDtestimony

From: Barbara Polk [ednbarb8@earthlink.net]
Sent: Wednesday, March 12, 2008 3:22 PM
To: JUDtestimony
Subject: testimony on SB2605 for 3/13/08

TO: Chair Tommy Waters, Vice-Chair Blake Oshiro
Members of the House Judiciary Committee

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

SUBJECT: SUPPORT FOR SB 2605 SD2, WITH AMENDMENTS

The Hawaii Chapter of Americans for Democratic Action supports increasing the income tax check-off to the Hawaii Election Campaign Fund. Ideally, we would like to see the check-off raised to \$5, as originally proposed, rather than to \$3 and ask that this bill be amended to reflect that change. Given that the other source of revenue for this fund, fines from violations of the election laws, are being diverted by another bill to the general fund, we are concerned that the increase of \$1 proposed, will not off-set this loss and endangers the prospects of competitive public financing of election campaigns.

Please increase the check-off amount to \$5 and pass this bill.

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TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

SUBJECT: INCOME, Tax checkoff for Hawaii election campaign fund

BILL NUMBER: SB 2605, SD-1; HB 2652 (Similar)

INTRODUCED BY: SB by Senate Committees on Judiciary and Labor and Economic Development and Taxation; HB by Belatti, Green, Lee, Luke, Magaoay, Morita, Wakai, Yamane, and 6 Democrats

BRIEF SUMMARY: Amends HRS 235-102.5 to increase the amount that individuals may designate to the Hawaii election campaign fund from \$2 to \$5 and from \$4 to \$10 for each spouse filing jointly.

EFFECTIVE DATE: SB - Tax years beginning after December 31, 2050; HB - Tax years beginning after December 31, 2007

STAFF COMMENTS: These measures increase the amount a taxpayer may designate to the Hawaii election campaign fund. It should be remembered that utilizing the tax system as a collection agent for such specific purposes sets poor tax policy.

It should be noted that the existing checkoff, which these measures propose to increase, comes off the amount of money that goes into the general fund. It is that much less available for education, health, public safety and the slew of public programs that depend on the general fund. Thus, while it sounds like the civic thing to do, just how it affects resources for programs should also be considered.

Apparently this proposal is in reaction to the fact that over the years the amount being contributed or checked-off has been declining. If, in fact, there are less and less people interested in contributing to campaign financing in this way, then merely increasing the amount that can be designated will not heighten the awareness or need for public financing of political campaigns.

Digested 2/22/08