



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

February 25, 2008

**TO:** The Honorable Rosalyn H. Baker  
The Honorable Shan S. Tsutsui  
Members of the Senate Committee on Ways and Means

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

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

Monday, February 25, 2008  
10:30 a.m. in Conference Room 211

Chair Baker, Vice-Chair Tsutsui, and Members of the Senate Committee on Ways and Means, 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..."<sup>1</sup>

This bill is applicable to taxable years beginning after December 31, 2007.<sup>2</sup>

The Campaign Spending Commission ("Commission") supports this bill, which was not submitted by the Commission. The sources of funding (including the check-off) have been decreasing. 2008 is an election year and the Commission anticipates receiving

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<sup>1</sup> 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.

<sup>2</sup> 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.

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,<sup>3</sup> the libraries special fund,<sup>4</sup> and the domestic violence and child-abuse fund.<sup>5</sup> There is at least one proposal in the 2008 Legislature for another check-off.<sup>6</sup>

The Fund currently provides partial public financing to candidates and the Commission’s operating expenses.<sup>7</sup>

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.

### **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.

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<sup>3</sup> Act 311, SLH 2001.

<sup>4</sup> Act 193, SLH 2003.

<sup>5</sup> Act 228, SLH 2004.

<sup>6</sup> 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.

<sup>7</sup> HRS section 11-217.

**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. 1<sup>8</sup> and S.B. No.1549<sup>9</sup>) 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.

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

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

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## SENATE COMMITTEE ON WAYS & MEANS

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

**DATE: FEBRUARY 25, 2008**

**TIME: 10:30AM**

**ROOM: 211**

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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 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<br>Check Box | No. of<br>Returns | Amount Collected |           |           |
|-------------------------------|-------------------------|-------------------|------------------|-----------|-----------|
|                               |                         |                   | FY 2007          | FY 2007   | FY 2006   |
| Hawaii Election Campaign Fund | \$2                     | 91,651            | \$220,406        | \$186,312 | \$220,490 |

## L E G I S L A T I V E

**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