
A BILL FOR AN ACT

RELATING TO CAMPAIGN FINANCING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§11- Ballot issue committee; contributions and
5 expenditures. (a) A ballot issue committee shall receive
6 contributions or make expenditures only for or against any issue
7 appearing on the ballot at the next applicable election.

8 (b) A ballot issue committee is prohibited from receiving
9 contributions or making expenditures to influence the nomination
10 or election of a candidate to office.

11 (c) A ballot issue committee shall return all surplus
12 funds to the contributors or donate funds to a community
13 service, educational, youth, recreational, charitable,
14 scientific, or literary organization within ninety days after
15 the election for which the issue appeared on the ballot.
16 Surplus funds that are not returned or donated within ninety
17 days after the election for which the issue appeared on the
18 ballot shall escheat to the Hawaii election campaign fund.



1 (d) Every ballot issue committee shall terminate its
2 registration with the commission by filing a termination report
3 to be approved as provided in section 11-213. The termination
4 report shall be filed within ninety days after the election for
5 which the issue appeared on the ballot."

6 SECTION 2. Section 11-191, Hawaii Revised Statutes, is
7 amended as follows:

8 1. By adding a new definition to be appropriately inserted
9 and to read:

10 "Automated phone call" means any outbound telephone call
11 that plays a recorded message:

12 (1) When the receiving party answers the call; and

13 (2) That advocates, supports, or opposes:

14 (A) The nomination or election of a candidate; or

15 (B) A question or issue certified to be on the ballot
16 in the next election."

17 2. By amending the definitions of "advertisement" and
18 "ballot issue committee" to read:

19 "Advertisement" means:

20 (1) Any communication, exclusive of bumper stickers or
21 other sundry items, that [+]



- 1 ~~(A) Identifies]~~ identifies a candidate either
2 directly or by direct implication; and
3 ~~(B)]~~ (A) Advocates or supports the nomination for election
4 of the candidate;
5 ~~(C)]~~ (B) Advocates or supports the election of the
6 candidate; or
7 ~~(D)]~~ (C) Advocates or supports the candidate's defeat.
8 (2) Any communication, exclusive of bumper stickers or
9 other sundry items, that~~[-~~
10 ~~(A) Identifies]~~ identifies an issue or question that
11 will appear on the ballot at the next applicable
12 election; ~~[or~~
13 ~~(B) Advocates]~~ and advocates or supports the passage
14 or defeat of the question or issue.

15 "Ballot issue committee" means a committee as defined in
16 this section which has the exclusive purpose of ~~[making or~~
17 ~~accepting]~~ receiving contributions or making expenditures for or
18 against any issue appearing on the ballot at the next applicable
19 election."

20 SECTION 3. Section 11-193, Hawaii Revised Statutes, is
21 amended by amending subsection (a) to read as follows:

22 "(a) The duties of the commission under this subpart are:



- 1 (1) To develop and adopt reporting forms required by this
2 subpart;
- 3 (2) To adopt and publish a manual for all candidates and
4 committees, describing the requirements of this
5 subpart, including uniform and simple methods of
6 recordkeeping;
- 7 (3) To preserve all reports required by this subpart for
8 at least ten years from the date of receipt;
- 9 (4) To permit the inspection, copying, or duplicating of
10 any report required by this subpart pursuant to rules
11 adopted by the commission; provided that no
12 information or copies from the reports shall be sold
13 or used by any person for the purpose of soliciting
14 contributions or for any commercial purpose;
- 15 (5) To ascertain whether any candidate, committee, or
16 party has failed to file a report required by this
17 subpart or has filed a substantially defective or
18 deficient report [7] in violation of section 11-213.5,
19 and to notify these persons by first class mail that
20 their failure to file or filing of a substantially
21 defective or deficient report must be corrected and
22 explained, and that a [penalty] fine may be assessed[-



1 ~~All penalties collected under this section shall be~~
2 ~~deposited in the general fund of the State];~~

3 (6) To hold public hearings;

4 (7) To investigate and hold hearings for receiving
5 evidence of any violations;

6 ~~[(8) To adopt a code of fair campaign practices as a part~~
7 ~~of its rules;~~

8 ~~+(9)]~~ (8) To establish rules pursuant to chapter 91;

9 ~~[(10)]~~ (9) To request the initiation of prosecution for the
10 violation of this subpart pursuant to section 11-229;

11 ~~[(11)]~~ (10) To administer and monitor the distribution of
12 public funds under this subpart;

13 ~~[(12)]~~ (11) To suggest accounting methods for candidates,
14 parties, and committees, as the commission may deem
15 advisable, in connection with reports and records
16 required by this subpart;

17 ~~[(13)]~~ (12) To employ or contract, without regard to
18 chapters 76, 78, and 89 and section 28-8.3, and, at
19 pleasure, to dismiss persons it finds necessary for
20 the performance of its functions, including a full-
21 time executive director, and to fix their
22 compensation;



1 ~~[(14)]~~ (13) To do random audits, field investigations, as
2 necessary;

3 ~~[(15)]~~ (14) To file for injunctive relief when indicated;
4 and

5 ~~[(16)]~~ (15) To render advisory opinions upon the request of
6 any candidate, candidate committee, noncandidate
7 committee, or other person or entity subject to this
8 chapter, as to whether the facts and circumstances of
9 a particular case constitute or will constitute a
10 violation of the campaign spending laws. If no
11 advisory opinion is rendered within ninety days after
12 all information necessary to issue an opinion has been
13 obtained, it shall be deemed that an advisory opinion
14 was rendered and that the facts and circumstances of
15 that particular case do not constitute a violation of
16 the campaign spending laws. The opinion rendered or
17 deemed rendered, until amended or revoked, shall be
18 binding on the commission in any subsequent charges
19 concerning the candidate, candidate committee,
20 noncandidate committee, or other person or entity
21 subject to this chapter, who sought the opinion and
22 acted in reliance on it in good faith, unless material



1 facts were omitted or misstated by the persons in the
2 request for an advisory opinion. Nothing in this
3 section shall be construed to allow the commission to
4 issue rules through an advisory opinion."

5 SECTION 4. Section 11-199, Hawaii Revised Statutes, is
6 amended by amending subsection (a) to read as follows:

7 "(a) All monetary contributions shall be promptly
8 deposited in [a] an account or accounts with a depository
9 institution, as defined by section 412:1-109, [~~duly authorized~~
10 ~~to do business in the State,~~] such as a bank, savings bank,
11 savings and loan association, depository financial services loan
12 company, or credit union[~~, intra-Pacific bank, or similar~~
13 ~~financial institution, the deposits or accounts of which are~~
14 ~~insured] at a branch of the depository institution, as defined
15 by section 412:3-501, in the state. The account shall be:~~

16 (1) Insured by the Federal Deposit Insurance Corporation,
17 or the National Credit Union Administration [~~±~~];

18 (2) In the name of the candidate, committee, or party,
19 whichever is applicable[~~-~~]; and

20 (3) In an institution that is physically located in the
21 state."



1 SECTION 5. Section 11-204, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§11-204 Campaign contributions; limits as to persons.**

4 (a) (1) No person, including a noncandidate committee, or any
5 other entity shall make contributions to:

6 (A) A candidate seeking nomination or election to a
7 two-year office or to the candidate's committee
8 in an aggregate amount greater than \$2,000 during
9 an election period;

10 (B) A candidate seeking nomination or election to a
11 four-year statewide office or to the candidate's
12 committee in an aggregate amount greater than
13 \$6,000 during an election period; and

14 (C) A candidate seeking nomination or election to a
15 four-year nonstatewide office or to the
16 candidate's committee in an aggregate amount
17 greater than \$4,000 during an election period.

18 These limits shall not apply to a loan made to a
19 candidate by a financial institution in the ordinary
20 course of business;

21 (2) For purposes of this section, the length of term of an
22 office shall be the usual length of term of the office



1 as unaffected by reapportionment, a special election
2 to fill a vacancy, or any other factor causing the
3 term of the office the candidate is seeking to be less
4 than the usual length of term of that office.

5 (b) ~~[No person or any other entity shall make~~
6 ~~contributions to a noncandidate committee, in an aggregate~~
7 ~~amount greater than \$1,000 in an election.]~~ A company shall
8 make all contributions and expenditures greater than \$1,000 in
9 the aggregate in a two-year election period solely through the
10 company's noncandidate committee in accordance with paragraph
11 (a) (1). The noncandidate committee shall register with the
12 commission pursuant to section 11-194.

13 (c) A candidate's immediate family, in making
14 contributions to the candidate's campaign, shall be exempt from
15 the above limitation, but shall be limited in the aggregate to
16 \$50,000 in any election period. The aggregate amount of \$50,000
17 shall include any loans made for campaign purposes to the
18 candidate from the candidate's immediate family.

19 (d) A contribution by a dependent minor shall be reported
20 in the name of the minor but shall be counted against the
21 contribution of the minor's parent or guardian.



1 (e) Any candidate, candidate's committee, or committee
2 that receives in the aggregate more than the applicable limits
3 set forth in this section in any primary, initial special,
4 special, or general election from a person, shall be required to
5 return any excess contribution to the original donor within
6 thirty days of receipt of the excess contribution. Any excess
7 contribution not returned to the original donor within thirty
8 days shall escheat to the Hawaii election campaign fund. A
9 candidate, candidate's committee, or committee who complies with
10 this subsection prior to the initiation of prosecution shall not
11 be subject to any penalty under section 11-228.

12 (f) All payments made by a person or political party whose
13 contributions or expenditure activity is financed, maintained,
14 or controlled by any corporation, labor organization,
15 association, political party, or any other person or committee,
16 including any parent, subsidiary, branch, division, department,
17 or local unit of the corporation, labor organization,
18 association, political party, political committees established
19 and maintained by a national political party, or any other
20 person, or by any group of those persons shall be considered to
21 be made by a single person or political party.



1 (g) An individual and any general partnership in which the
2 individual is a partner shall be treated as one person.

3 (h) No committee that supports or opposes a candidate for
4 public office shall have as officers individuals who serve as
5 officers on any other committee which supports or opposes the
6 same candidate. No such committee shall act in concert with, or
7 solicit or make contributions on behalf of, any other committee.

8 (i) No contributions or expenditures shall be made to or
9 on behalf of a candidate or committee by a foreign national or
10 foreign corporation, including a domestic subsidiary of a
11 foreign corporation, a domestic corporation that is owned by a
12 foreign national, or a local subsidiary where administrative
13 control is retained by the foreign corporation, and in the same
14 manner prohibited under 2 United States Code [~~section~~] Section
15 441e and 11 Code of Federal Regulations 110.20, as amended. No
16 foreign-owned domestic corporation shall make contributions
17 where:

18 (1) Foreign national individuals participate in election-
19 related activities such as decisions concerning the
20 making of contributions or the administration of a
21 political committee; or

22 (2) The contribution funds are not domestically-derived.



1 (j) No person or any other entity other than political
2 committees established and maintained by a national political
3 party shall make contributions to a political party in an
4 aggregate amount greater than \$25,000 in any two-year election
5 period. No political committee established and maintained by a
6 national political party, shall make contributions to a
7 political party in an aggregate amount greater than \$50,000 in
8 any two-year election period. A company's noncandidate
9 committee may make a contribution to a party in accordance with
10 the same conditions and restrictions as applicable to a
11 "person."

12 (k) For the purpose of this section, "company" means a
13 corporation, partnership, limited liability company, limited
14 liability partnership, financial institution, or any other
15 entity engaged in business.

16 [~~(k)~~] (l) The contribution limits under this section shall
17 apply for the office sought by the candidate. This section
18 shall not apply to ballot issue committees."

19 SECTION 6. Section 11-213.5, Hawaii Revised Statutes, is
20 amended by amending subsections (a) through (e) to read as
21 follows:



1 "(a) True and accurate reports shall be filed with the
2 commission on or before the due date specified in this subpart.
3 ~~[Any committee that is required to file reports under this~~
4 ~~subpart shall be subject to the penalties in this section if the~~
5 ~~report is not filed by the due date or if the report is~~
6 ~~substantially defective or deficient,]~~ The commission may
7 assess a fine against a committee that is required to file a
8 report under this subpart if the report is not filed by the due
9 date or if the report is substantially defective or deficient,
10 as determined by the commission.

11 (b) The ~~[penalty]~~ fine for not filing a report by the due
12 date, if assessed, shall ~~[be]~~ not exceed \$50 per day for the
13 first seven days, beginning with the day after the due date of
14 the report, and shall not exceed \$200 per day thereafter~~[,]~~;
15 provided that:

16 (1) In the aggregate, the fine shall not ~~[to]~~ exceed
17 twenty-five per cent of the total amount of
18 contributions or expenditures, whichever is greater,
19 for the period covered by the report; ~~[provided that~~
20 ~~the]~~ and



1 (2) The minimum [~~penalty~~] fine for a report filed more
2 than four days after the due date, if assessed, shall
3 be \$200.

4 (c) Subsection (b) notwithstanding, if a candidate's
5 committee does not file the second preliminary primary report or
6 the preliminary general report or if a noncandidate committee
7 does not file the preliminary primary report or the preliminary
8 general report by the due date, the fine, if assessed, shall
9 [~~be~~] not exceed \$300 per day[~~7~~]; provided that:

10 (1) In the aggregate, the fine shall not [~~to~~] exceed
11 twenty-five per cent of the total amount of
12 contributions or expenditures, whichever is greater,
13 for the period covered by the report; [~~provided that~~
14 the] and

15 (2) The minimum [~~penalty~~] fine, if assessed, shall be
16 \$300.

17 (d) If the commission determines that a report is
18 substantially defective or deficient, the commission shall
19 notify the candidate's committee by first class mail that:

20 (1) The report is substantially defective or deficient;
21 and

22 (2) A [~~penalty~~] fine may be assessed.



1 (e) If the corrected report is not filed with the
2 commission's electronic filing system on or before the
3 fourteenth day after the notice of deficiency has been mailed,
4 the ~~[penalty]~~ fine, if assessed, for a substantially defective
5 or deficient report shall ~~[be]~~ not exceed \$50 per day for the
6 first seven days, beginning with the fifteenth day after the
7 notice was sent, and shall not exceed \$200 per day
8 thereafter~~[7]~~; provided that:

9 (1) In the aggregate, the fine shall not ~~[to]~~ exceed
10 twenty-five per cent of the total amount of
11 contributions or expenditures, whichever is greater,
12 for the period covered by the report; ~~[provided that~~
13 ~~the]~~ and

14 (2) The minimum ~~[penalty]~~ fine for not filing a corrected
15 report more than eighteen days after the notice was
16 sent, if assessed, shall be \$200."

17 SECTION 7. Section 11-215, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "§11-215 Advertising. (a) All advertisements shall
20 contain the name and address of the candidate, committee, party,
21 or person paying for the advertisement. If an advertisement is
22 not authorized by a candidate or a candidate's committee, the



1 advertisement shall contain the name and address of the person
2 paying for the advertisement.

3 (b) In addition to subsection (a), no candidate or
4 committee shall cause or submit any advertisement in support of
5 a candidate, against a candidate's opponent, or with regard to a
6 ballot issue to be published, broadcast, televised, or otherwise
7 circulated and distributed except under the following
8 conditions:

9 (1) The advertisement shall contain a notice in a
10 prominent location that the literature or
11 advertisement is published, broadcast, televised, or
12 circulated with the approval and authority of the
13 candidate, provided that in the event that the
14 literature or advertisement is paid for by a
15 candidate, committee directly associated with a
16 candidate, or ballot issue committee, the notice of
17 approval and authority need not be included; or

18 (2) The advertisement shall contain a notice in a
19 prominent location that the literature or
20 advertisement is published, broadcast, televised, or
21 circulated without the approval and authority of the
22 candidate.



1 (c) The information required in subsections (a) and (b)
2 shall be included on every home page of every website containing
3 an advertisement. For purposes of this subsection, the home
4 page of a website shall be the index page or the page to which
5 web traffic is initially directed when typing in the website
6 address which serves as the main navigation page for the rest of
7 the website. A site map is not a home page.

8 (d) The information required in subsections (a) and (b)
9 shall be stated at the beginning of an automated phone call.

10 [~~e~~] (e) The [~~penalty~~] fine for violating this section
11 shall [~~be a fine~~] not [~~to~~] exceed \$25 for each advertisement
12 that lacks the required disclaimer and shall be no more than
13 \$5,000 in the aggregate."

14 SECTION 8. Section 11-228, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending subsection (a) to read:

17 "(a) In the performance of its required duties, the
18 commission may render a decision or issue an order affecting any
19 person violating any provision of this subpart or section 281-22
20 that [~~shall~~] may provide for the assessment of [~~an~~
21 ~~administrative~~] a fine in the manner prescribed as follows:



- 1 (1) If a natural person, an amount not to exceed \$1,000
2 for each occurrence or an amount equivalent to three
3 times the amount of an unlawful contribution or
4 expenditure [~~, whichever is greater~~]; or
- 5 (2) If a corporation, organization, association, or labor
6 union, it shall be punished by a fine not exceeding
7 \$1,000 for each occurrence; and
- 8 (3) Whenever a corporation, organization, association, or
9 labor union violates this subpart, the violation shall
10 be deemed to be also that of the individual directors,
11 officers, or agents of the corporation, organization,
12 association, or labor union, who have knowingly
13 authorized, ordered, or done any of the acts
14 constituting the violation."

15 2. By amending subsection (g) to read:

16 "(g) The provisions of this section shall not apply to any
17 person who, prior to the commencement of proceedings under this
18 section, has paid or agreed to pay the penalties prescribed by
19 sections 11-213.5 and [~~11-215(e)~~] 11-215(e)."

20 SECTION 9. Section 11-229, Hawaii Revised Statutes, is
21 amended by amending subsection (e) to read as follows:



1 "(e) The provisions of this section shall not apply to any
2 person who, prior to the commencement of proceedings under this
3 section, has paid or agreed to pay the penalties prescribed by
4 sections 11-213.5 and [~~11-215(e)~~] 11-215(e)."

5 SECTION 10. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 11. This Act shall take effect upon its approval
8 and apply to contributions and expenditures occurring on or
9 after July 1, 2010; provided that sections 6 and 8 shall take
10 effect retroactive to July 8, 2008.



Report Title:

Elections; Campaign Financing

Description:

Amends law relating to ballot issue committees. Defines automated phone call and requires certain information to be stated at the beginning of such phone calls. Amends the definition of advertisement. Repeals the campaign spending commission's authority to adopt a code of fair campaign practices as part of its rules. Requires advertising notices and disclaimers to be included on every web page that contains an advertisement. (HB2004 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

