
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) If a ballot issue committee has surplus funds, the
12 committee, within ninety days after the election for which the
13 issue appeared on the ballot, shall return any surplus funds to
14 the contributors or donate the funds to a community service,
15 educational, youth, recreational, charitable, scientific, or
16 literary organization. Surplus funds that are not returned or
17 donated within ninety days after the election for which the



1 issue appeared on the ballot shall escheat to the Hawaii
2 election campaign fund.

3 (d) Every ballot issue committee shall submit a request to
4 terminate its registration to the commission as provided in
5 section 11-213 within ninety days after the election for which
6 the issue appeared on the ballot."

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

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

11 "Automated phone call" means any outbound telephone call
12 or electronic voice message that plays a recorded message that
13 advocates, supports, or opposes the nomination or election of a
14 candidate; or advocates, supports, or opposes a question or
15 issue certified to be on the ballot in the next election."

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

18 "Advertisement" means:

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

21 ~~(A) Identifies]~~ identifies a candidate either
22 directly or by direct implication; and



1 ~~[(B) Advocates]~~ advocates or supports the nomination
2 for election or election, or both, of the
3 candidate;

4 ~~[(C) Advocates or supports the election of the~~
5 ~~candidate,]~~ or

6 ~~[(D) Advocates]~~ advocates or supports the candidate's
7 defeat.

8 (2) (A) Any communication, exclusive of bumper stickers
9 or 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]~~ and

13 (B) Advocates or supports the passage or defeat of
14 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, and to notify these persons by first
19 class mail that their failure to file or filing of a
20 substantially defective or deficient report must be
21 corrected and explained, and that a [~~penalty~~] fine may
22 be assessed. All [~~penalties~~] fines collected under



1 ~~[this]~~ section 11-213.5 shall be deposited in the
2 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



1 compensation~~[7]~~, and at pleasure, to dismiss persons
2 employed by the commission;
3 ~~[(14)]~~ (13) To do random audits~~[7]~~ and field investigations,
4 as necessary;
5 ~~[(15)]~~ (14) To file for injunctive relief when indicated;
6 and
7 ~~[(16)]~~ (15) To render advisory opinions upon the request of
8 any candidate, candidate committee, noncandidate
9 committee, or other person or entity subject to this
10 chapter, as to whether the facts and circumstances of
11 a particular case constitute or will constitute a
12 violation of the campaign spending laws. If no
13 advisory opinion is rendered within ninety days after
14 all information necessary to issue an opinion has been
15 obtained, it shall be deemed that an advisory opinion
16 was rendered and that the facts and circumstances of
17 that particular case do not constitute a violation of
18 the campaign spending laws. The opinion rendered or
19 deemed rendered, until amended or revoked, shall be
20 binding on the commission in any subsequent charges
21 concerning the candidate, candidate committee,
22 noncandidate committee, or other person or entity

1 subject to this chapter, who sought the opinion and
 2 acted in reliance on it in good faith, unless material
 3 facts were omitted or misstated by the persons in the
 4 request for an advisory opinion. Nothing in this
 5 section shall be construed to allow the commission to
 6 issue rules through an advisory opinion."

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

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

- 18 (1) Insured by the Federal Deposit Insurance Corporation,
 19 or the National Credit Union Administration [~~in~~];
- 20 (2) In the name of the candidate, committee, or party,
 21 whichever is applicable[-]; and

1 (3) In an institution that is physically located in the
2 State."

3 SECTION 5. Section 11-213.5, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~[§]11-213.5[§]~~ **Failure to file report; filing a**
6 **substantially defective or deficient report.** (a) True and
7 accurate reports shall be filed with the commission on or before
8 the due date specified in this subpart. ~~[Any committee that is~~
9 ~~required to file reports under this subpart shall be subject to~~
10 ~~the penalties in this section if the report is not filed by the~~
11 ~~due date or if the report is substantially defective or~~
12 ~~deficient,]~~ The commission may assess a fine against a committee
13 that is required to file a report under this subpart if the
14 report is not filed by the due date or if the report is
15 substantially defective or deficient, as determined by the
16 commission.

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



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

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

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

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

20 (2) The minimum ~~[penalty]~~ fine, if assessed, shall be
21 \$300.



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

4 (1) The report is substantially defective or deficient;
5 and

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

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

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

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

1 (f) The commission shall publish on its website the names
2 of all candidate's committees that have failed to file a report
3 or to correct a report within the time allowed by the
4 commission.

5 (g) All [~~penalties~~] fines collected under this section
6 shall be deposited into the general fund."

7 SECTION 6. Section 11-215, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§11-215 Advertising.** (a) All advertisements shall
10 contain the name and address of the candidate, committee, party,
11 or person paying for the advertisement. If an advertisement is
12 not authorized by a candidate or a candidate's committee, the
13 advertisement shall contain the name and address of the person
14 paying for the advertisement.

15 (b) In addition to subsection (a), no candidate or
16 committee shall cause or submit any advertisement in support of
17 a candidate, against a candidate's opponent, or with regard to a
18 ballot issue to be published, broadcast, televised, or otherwise
19 circulated and distributed except under the following
20 conditions:

21 (1) The advertisement shall contain a notice in a
22 prominent location that the literature or



1 advertisement is published, broadcast, televised, or
2 circulated with the approval and authority of the
3 candidate~~[7]~~; provided that ~~[in the event that]~~ if the
4 literature or advertisement is paid for by a
5 candidate, committee directly associated with a
6 candidate, or ballot issue committee, the notice of
7 approval and authority need not be included; or

8 (2) The advertisement shall contain a notice in a
9 prominent location that the literature or
10 advertisement is published, broadcast, televised, or
11 circulated without the approval and authority of the
12 candidate.

13 (c) The information required in subsections (a) and (b)
14 shall be included on every web page containing an advertisement.

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

17 ~~[-e-]~~ (e) The ~~[penalty]~~ fine for violating this section
18 shall be a fine not to exceed \$25 for each advertisement that
19 lacks the required disclaimer and no more than \$5,000
20 aggregate."

21 SECTION 7. Section 11-228, Hawaii Revised Statutes, is
22 amended by amending subsection (a) to read as follows:



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

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

20 SECTION 8. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect upon its approval
2 and apply to contributions and expenditures occurring on or
3 after July 1, 2010; provided that sections 5 and 7 shall take
4 effect retroactive to July 8, 2008.

5



Report Title:

Elections; Campaign Financing

Description:

Enacts requirements for ballot issue committees, including contribution and expenditure requirements. 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. Clarifies deposit requirements for contributions. Requires advertising notices and disclaimers to be included on every web page that contains an advertisement. (SD1)

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

