

JAN 23 2009

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# A BILL FOR AN ACT

RELATING TO CAMPAIGN FINANCING.

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

1           SECTION 1. Section 11-209, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3           "(a) From January 1 of the year of any primary, special,  
4 or general election, the total expenditures for each election  
5 for candidates who voluntarily agree to limit their campaign  
6 expenditures, inclusive of all expenditures made or authorized  
7 by the candidate alone and all campaign treasurers and  
8 committees in the candidate's behalf, shall not exceed the  
9 following amounts expressed respectively multiplied by the  
10 number of voters in the last preceding general election  
11 registered to vote in each respective voting district:

- 12           (1) For the office of governor-- [~~\$2.50~~] \$2.60;
- 13           (2) For the office of lieutenant governor-- [~~\$1.40~~] \$1.50;
- 14           (3) For the office of mayor-- [~~\$2.00~~] \$2.10;
- 15           (4) For the offices of state senator, state  
16 representative, [~~and~~] county council member, and  
17 prosecuting attorney-- [~~\$1.40~~] \$1.50; and



1 (5) For the offices of the board of education and all  
2 other offices-- [~~20 cents.~~] 25 cents."

3 SECTION 2. Section 11-218, Hawaii Revised Statutes, is  
4 amended by amending subsections (a) and (b) to read as follows:

5 "(a) For the office of governor, lieutenant governor, or  
6 mayor, the maximum amount of public funds available to a  
7 candidate in any election shall not exceed [~~ten~~] fourteen per  
8 cent of the total expenditure limit as determined under section  
9 11-209 for each election for each office listed in this  
10 subsection.

11 (b) For the office of state senator, state representative,  
12 county council member, and prosecuting attorney, the maximum  
13 amount of public funds available to a candidate in any election  
14 shall be [~~fifteen~~] nineteen per cent of the total expenditure  
15 limit as determined under section 11-209 for each election for  
16 each office listed in this subsection."

17 SECTION 3. Act 244, Session Laws of Hawaii 2008, section  
18 2, is amended by repealing the definition of "equalizing funds."

19 [~~"Equalizing funds" means additional public funds released~~  
20 ~~by the commission to a comprehensive publicly funded candidate~~  
21 ~~to allow the publicly funded candidate to stay financially~~  
22 ~~competitive with a nonparticipating candidate in a contested~~



1 ~~election and to penalize a nonparticipating candidate for filing~~  
2 ~~false or late reports."]~~

3 SECTION 4. Act 244, Session Laws of Hawaii 2008, section 9  
4 is amended to read as follows:

5 "SECTION 9. Comprehensive publicly funded candidates;  
6 contributions and expenditures; penalties. (a) Except as  
7 authorized under section 12, a certified candidate shall comply  
8 with the following restrictions on contributions and  
9 expenditures:

10 (1) Upon certification for comprehensive public funding  
11 and until the end of the general election campaign  
12 period, a candidate shall not accept for use in the  
13 campaign:

- 14 (A) Contributions from any person;
- 15 (B) Loans from any person, including a certified  
16 candidate;
- 17 (C) Contributions from political parties; and
- 18 (D) Any campaign material purchased or held from a  
19 date prior to filing the declaration of intent to  
20 seek comprehensive public funds;

21 and



1           (2) Upon certification for comprehensive public funding  
2                   and until the end of the general election campaign  
3                   period, a candidate shall not expend for campaign  
4                   purposes:

5                   (A) Any money except public funds issued by the  
6                               commission;

7                   (B) Public funds for purposes other than those  
8                               permitted in this part;

9                   (C) Public funds outside the applicable campaign  
10                              period; and

11                   (D) Public funds in excess of the comprehensive  
12                              public funds allocated to the candidate[  
13                              ~~including equalizing funds.~~].

14           (b) A certified candidate who accepts contributions in  
15 violation of this section shall be subject to a fine equal to  
16 three times the public funding received, in addition to any  
17 other action, fines, or prosecution under section 18 and subpart  
18 B of part XII of chapter 11, Hawaii Revised Statutes, or any  
19 provision of the Hawaii Penal Code.

20           (c) A certified candidate who makes expenditures of more  
21 than one hundred per cent of the public funds allocated to the



1 candidate shall repay to the Hawaii election campaign fund an  
2 amount equal to three times the excess expenditures."

3 SECTION 5. Act 244, Session Laws of Hawaii 2008, section  
4 12, is amended to read as follows:

5 "SECTION 12. **Sufficiency of public funding; amount of base**  
6 **public funding; disbursements.** (a) The commission shall not  
7 distribute comprehensive public funding to certified candidates  
8 that exceeds the total amount of \$300,000 for all candidates  
9 subject to this part in any given election year in which this  
10 part is operative.

11 (b) Beginning January 1 of a general election year and  
12 ending with the deadline to submit applications for  
13 certification, the commission shall post on its website a  
14 monthly report stating, by district:

- 15 (1) The number of declarations of intent to seek  
16 comprehensive public funding received;
- 17 (2) The number of applications for certification received;
- 18 (3) The number of candidates who have been certified for  
19 comprehensive public funding;
- 20 (4) The amount of public funding committed to certified  
21 candidates; and



1           (5) The amount of public funding available for additional  
2           certified candidates.

3           Notwithstanding any other provisions in this part, if the  
4           commission determines that the revenues are insufficient to meet  
5           distributions to certified candidates under this section or  
6           \$300,000 is distributed, the commission shall permit certified  
7           candidates to accept and spend contributions, subject to the  
8           campaign contribution limitations set forth in section 11-204,  
9           Hawaii Revised Statutes, up to the applicable amounts [~~7~~  
10          ~~including equalizing funds~~] the certified candidate would have  
11          received from comprehensive public funding.

12          (c) For primary elections subject to this part, the base  
13          amount of public funding shall be the average of the amount  
14          spent by the winning candidates in the previous two county  
15          council primary elections of the same district, reduced by ten  
16          per cent.

17          (d) For general elections subject to this part, the base  
18          amount of public funding shall be the average of the amount  
19          spent by the winning candidates in the previous two county  
20          council general elections for the same district, reduced by ten  
21          per cent.



1 (e) The base amount of public funding for a primary  
2 election in which no other candidate has filed nomination papers  
3 shall be thirty per cent of the amount provided in a contested  
4 election as determined under subsection (c). No funding shall  
5 be allocated in an uncontested general election.

6 (f) Public funds [~~including equalizing funds~~] shall be  
7 paid to a certified candidate by the comptroller in the manner  
8 prescribed in section 11-222, Hawaii Revised Statutes.

9 (g) If the winning primary candidate has residual funds  
10 from the primary election, those funds may be carried over to  
11 the general election provided that a winning primary candidate  
12 who does not have an opponent in the general election shall  
13 return all unexpended public funds to the Hawaii campaign  
14 election fund within thirty days after the primary election  
15 except as provided in section 11(b).

16 (h) A certified candidate who is not successful in the  
17 election shall return all unexpended public funds to the Hawaii  
18 election campaign fund within thirty days after the election in  
19 which the candidate was not successful."

20 SECTION 6. Act 244, Session Laws of Hawaii 2008, is  
21 amended by repealing section 13.



1       ~~["SECTION 13. Equalizing funds; sufficiency of funds. (a)~~  
2 ~~Equalizing funds, subject to the expenditure cap in section~~  
3 ~~12(a), shall be disbursed in the amounts provided in this~~  
4 ~~section to a certified candidate in a contested election~~  
5 ~~whenever that candidate is outspent by an opposing~~  
6 ~~nonparticipating candidate.~~

7       ~~(b) An opposing nonparticipating candidate is deemed to~~  
8 ~~have outspent a certified candidate when the campaign report~~  
9 ~~filed pursuant to this subpart shows that the nonparticipating~~  
10 ~~candidate's committee's expenditures or contributions, whichever~~  
11 ~~is greater, added to any independent expenditures made in~~  
12 ~~support of that nonparticipating candidate or against the~~  
13 ~~opposing certified candidate reported by any person, minus any~~  
14 ~~independent expenditures made in support of the certified~~  
15 ~~candidate or against the nonparticipating candidate reported by~~  
16 ~~any person exceeds one hundred per cent of the base amount for~~  
17 ~~the certified candidate.~~

18       ~~(c) In a contested election, the aggregate amount of~~  
19 ~~equalizing funds shall be limited to an amount equal to the base~~  
20 ~~amount allotted to the certified candidate regardless of the~~  
21 ~~amount of contributions received or expenditures made by an~~  
22 ~~opposing nonparticipating candidate; independent expenditures~~





1 ~~made in support of that nonparticipating candidate or against~~  
2 ~~the opposing certified candidate, or the failure to file an~~  
3 ~~excess report on or before the due date by the nonparticipating~~  
4 ~~candidate or filing of a false excess report.~~

5 ~~Twenty five per cent of the base amount shall be paid to~~  
6 ~~the certified participating candidate in the manner prescribed~~  
7 ~~in section 11 222, Hawaii Revised Statutes, if the commission~~  
8 ~~determines that the nonparticipating candidate's committee's~~  
9 ~~expenditures or contributions, whichever is greater, added to~~  
10 ~~any independent expenditures made in support of that~~  
11 ~~nonparticipating candidate or against the opposing certified~~  
12 ~~candidate reported by any person, minus any independent~~  
13 ~~expenditures made in support of the certified candidate or~~  
14 ~~against the nonparticipating candidate reported by any person:~~

- 15 ~~(1) Exceeds one hundred per cent but is less than one~~  
16 ~~hundred twenty five per cent,~~
- 17 ~~(2) Is equal to or exceeds one hundred twenty five per cent~~  
18 ~~but is less than one hundred fifty per cent,~~
- 19 ~~(3) Is equal to or exceeds one hundred fifty per cent but~~  
20 ~~is less than one hundred seventy five per cent; or~~
- 21 ~~(4) Is equal to or exceeds one hundred seventy five per~~  
22 ~~cent of the certified candidate's base amount." ]~~



1 SECTION 7. Act 244, Session Laws of Hawaii 2008, is  
2 amended by repealing section 14.

3 [~~SECTION 14. Reporting, public funds if report not filed~~  
4 ~~by nonparticipating candidate, penalties for failure to report.~~  
5 ~~(a) Reporting obligations under this section for~~  
6 ~~nonparticipating candidates and their candidate's committees or~~  
7 ~~any other persons making independent expenditures shall be in~~  
8 ~~addition to the reporting requirements under this part and~~  
9 ~~chapter 11, Hawaii Revised Statutes, whenever a certified~~  
10 ~~candidate is opposed in a contested election by a~~  
11 ~~nonparticipating candidate as follows:~~

12 ~~(1) Beginning forty five days before the primary election~~  
13 ~~day, nonparticipating candidates and their candidate's~~  
14 ~~committees shall file an initial excess report with~~  
15 ~~the commission within twenty four hours after~~  
16 ~~aggregate contributions are received, or expenditures~~  
17 ~~are made in an election that exceeds one hundred one~~  
18 ~~per cent of the base amount of comprehensive public~~  
19 ~~funding allotted to an opposing certified candidate in~~  
20 ~~a contested election. Nonparticipating candidates and~~  
21 ~~the candidate's committees shall file supplemental~~  
22 ~~excess reports within twenty four hours after the~~



1 ~~committees' aggregate expenditures exceed \$1,000 since~~  
2 ~~the filing of the prior report; and~~  
3 ~~(2) Beginning forty five days before the general election~~  
4 ~~day, noncandidate committees and any other persons~~  
5 ~~that make independent expenditures that expressly~~  
6 ~~advocate the nomination, election, or defeat of a~~  
7 ~~certified candidate shall file the initial independent~~  
8 ~~expenditure report with the commission within twenty~~  
9 ~~four hours after expenditures exceed \$1,000 in~~  
10 ~~aggregate in an election. Noncandidate committees and~~  
11 ~~any other persons that incur independent expenditures~~  
12 ~~shall file supplemental independent expenditure~~  
13 ~~reports within twenty four hours after the aggregate~~  
14 ~~expenditures exceed \$1,000 since the filing of the~~  
15 ~~prior report. The independent expenditure reports~~  
16 ~~shall identify the nonparticipating candidate or~~  
17 ~~certified candidate for whom the independent~~  
18 ~~expenditure is intended to influence the nomination,~~  
19 ~~election, or defeat.~~

20 ~~(b) If a nonparticipating candidate and the candidate's~~  
21 ~~committee fails to file the initial excess report or~~  
22 ~~supplemental excess report in a contested election on or before~~



1 ~~the due date as required by this section or files a false excess~~  
2 ~~report or supplemental excess reports, the commission, within~~  
3 ~~twenty four hours of verifying the failure or falsity, shall~~  
4 ~~inform the comptroller. The entire base amount subject to the~~  
5 ~~expenditure cap in section 12(a) and equalizing funds cap in~~  
6 ~~section 13(c) shall be paid to a certified candidate by the~~  
7 ~~comptroller in the manner prescribed in section 11 222, Hawaii~~  
8 ~~Revised Statutes.~~

9 ~~(c) Any nonparticipating candidate and the candidate's~~  
10 ~~committee, or any other person that makes independent~~  
11 ~~expenditures in a contested election involving a certified~~  
12 ~~candidate and that fails to file a report as required under this~~  
13 ~~part shall be subject to a fine pursuant to section 11 \_\_\_\_\_,~~  
14 ~~Hawaii Revised Statutes;~~

15 ~~(d) Any nonparticipating candidate and the candidate's~~  
16 ~~committee, or any other person that makes independent~~  
17 ~~expenditures in a contested election involving a certified~~  
18 ~~candidate and that files a false report as required under this~~  
19 ~~part shall be subject to:~~

20 ~~(1) Any penalty pursuant to section 11 228, Hawaii Revised~~  
21 ~~Statutes; and~~



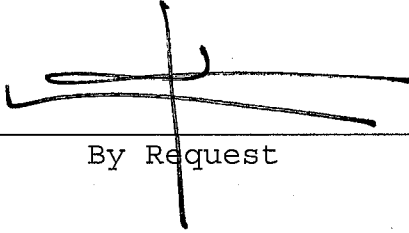
1        ~~(2) Prosecution pursuant to section 11-229, Hawaii Revised~~  
2                    ~~Statutes, and any provision of the Hawaii Penal~~  
3                    ~~Code." ]~~

4            SECTION 8. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6            SECTION 9. This Act shall take effect on approval,  
7 provided that sections 1 and 2 shall be applicable to matching  
8 payment periods beginning on January 1, 2010; and sections 3, 4,  
9 5, 6, and 7 shall take effect retroactive to July 1, 2008.

10

INTRODUCED BY: \_\_\_\_\_

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By Request



**Report Title:**

Campaign Financing

**Description:**

Increases the per-voter dollar amount expenditure limit of partial public financing and the percentage of total expenditure limit available as public funds. Repeals equalizing fund provisions.

