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STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
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HONOLULU, HAWAII 96813

January 26, 2010

TO: The Honorable Jon Riki Karamatsu, Chair
House Judiciary Committee

The Honorable Ken Ito, Vice-Chair
House Judiciary Committee

Members of the House Judiciary Committee

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

SUBJECT: Testimony on H.B. No. 2004, Relating to Campaign Financing¹

Tuesday, January 26, 2010
2:30 p.m. in Conference room 325

Chair Karamatsu, Vice-Chair Ito, and Members of the House Judiciary Committee, thank you for hearing this bill and the opportunity to testify on this bill.

We strongly support H.B. No. 2004, which was introduced at the Campaign Spending Commission's ("Commission") request.

This bill proposes to:

- Clarify the law relating to ballot issue committees (Sections 1 and 2);
- Add a definition for automated phone call (Section 2) and require that the automated phone call state the disclaimer at the beginning of the call (Section 7);
- Clarify the definition of an "advertisement" (Section 2);
- Repeal a provision in section 11-193, Hawaii Revised Statutes, relating to the code of fair campaign practices, that was struck down by a court in 2001² (Section 3);
- Require that contributions be deposited in a depository institution or their branch physically located in the State (Section 4);

¹ This bill has been referred to both this committee and the House Committee on Finance.

S.B. No. 2252 is the companion bill and was referred to the Senate Committee on Judiciary and Government Operations, which has not scheduled a hearing on that bill.

² Ancheta v. Watada, 135 F.Supp.2d 1114 (2001).

- Restore transparency for contributions to a noncandidate committee and add an unspecified limit for contributions by a corporation or company to its noncandidate committee (Section 5);
- Remove references to “penalties” and replace them with the term “fines;” and clarify that the Commission has discretion regarding fines (Sections 3, 6, and 8). This language is drawn from HB No. 128, CD2 (2009, which was passed by the Legislature but vetoed by the Governor. The language is also included in H.B. No. 2003 (2010) which is scheduled for a hearing by this Committee at the same time as this bill; and
- Amend the statute relating to advertising to clarify that the notice and disclaimer be included on every web page containing an advertisement (Section 7).

The provisions of this bill would take effect upon approval and apply to contributions and expenditures occurring on or after July 1, 2010; provided that Sections 6 and 8 (relating to fines) shall take effect retroactive to July 8, 2008.



HAWAII

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February 11, 2009

To: Chair John Riki Karamatsu
 Vice Chair Ken Ito
 House Judiciary Committee

From: Americans for Democratic Action/Hawai'i
 Barbara Polk, Legislative Chair

Subject: **Testimony in partial opposition to HB 2004 Relating to Campaign Financing**

Americans for Democratic Action, Hawaii Chapter (ADA/H), is pleased to see the inclusion of new language on Ballot Issue Committees and automated phone calls.

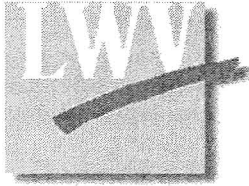
While it is preferable, from the point of view of transparency, to have any corporate donations which may be permitted go through a corporate non-candidate committee, as outlined in Section 11-204 of this bill, ADA/H is opposed to corporate contributions to political campaigns, despite the current Supreme Court ruling (which applies to corporate advertising, not to political donations). Allowing corporate political donations gives corporate board members, officers, or others in the position of directing those donations on behalf of the corporation, the ability to influence politics both through their role as an individual (a route available to all of us) and also through their corporate role. It is hardly a democracy when some individuals are given two or more channels for using money to influence elections while others have only one!

We again ask that you include language in this bill that prohibits corporations from making political donations to candidates, candidate committees, non-candidate committee, or political parties directly from their treasuries.

We also wonder why the Campaign Spending Commission should be exempt from promulgating "a code of fair campaign practices." Development of such a code is important to help maintain the integrity of our elections in the face of the increasing vehemence of the electorate.

We are also very concerned with the provisions for penalties to a committee that files a substantially defective or deficient report. Not only is the CSC allowed to decide whether or not to levy a fine (a decision that inevitably will subject them to accusations of partisanship), but the fines may not be assessed until a date several days AFTER the election to which they refer. As a result, transparency can be completely evaded by any committee wishing to hide the sources of its funds by filing an inadequate report, then “correcting” it after the election, while still avoiding any penalty. We strongly urge you to rethink this time-table and ensure that it will be possible for the public to get information on who funds various candidates or committees before the primary or general election as well as to ensure that any candidate or committee violating the law is required to pay a substantial fine.

Before passing this bill, we urge you to make amendments to it to deal with the concerns raised above. Thank you for this opportunity to testify on this bill.



THE LEAGUE OF WOMEN VOTERS OF HAWAII

TESTIMONY ON HB 2004 RELATING TO CAMPAIGN FINANCE

House Committee on Judiciary
Tuesday, January 26, 2010
2:30 p.m.
Conference Room 325

Testifier: Jean Aoki, LWV

Chair Karamatsu, Vice Chair Ito, members of the Judiciary Committee,

The League of Women Voters supports those parts of the bill that indicate the intended amendments clearly.

The bill presents a clear and complete discussion of what ballot issue committees can do and that which they cannot do. Some of our earlier concerns about ballot issue committees have been addressed.

This bill goes further and addresses something that had not occurred to us. Ballot issue committees are finite groups organized to support or oppose one or more issue questions on the ballot. When the election is over, the purpose for their existence is gone. This bill clearly addresses this by laying out the process for the termination of their registration with the Campaign Spending Commission.

HB 2004 adds automated phone calls to the list of actions that come under the definition of advertisements.

This bill while restricting individual contributions to noncandidate committees to an aggregate of \$1000 in a single election, leaves the limits on contributions by corporations and companies using money from their treasuries, blank. Of course, we cannot support this blank.

The section on the filing of reports and the allowed penalties for failure to file the reports in a timely manner, or substantially defective or deficient gives the commission the leeway for assessing the fines or not. Yet there are not criteria for the determination of whether fines should be imposed. This has the potential for speculation and distrust of the whole system. We suggest clearer and more definite guidelines, or, preferably, leaving the "shall" in.

Thank you for allowing us to testify on HB 2004.



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**House JUD Committee
Tuesday 1/26/10 at 2:30PM in Room 325
HB 2004**

TESTIMONY

Nikki Love, Executive Director, Common Cause Hawaii

Chair Karamatsu, Vice Chair Ito, and Committee Members:

I would like to submit **comments regarding HB 2004.**

Ballot Issue Committees, Automated Phone Calls, and Depository Institutions

We support the inclusion of language regarding ballot issue committees, automated phone calls, and depository institutions in the state.

Fines

We have serious concerns about the changes regarding penalties/fines. It appears to water down the enforcement of the law, which could lead to reduced compliance in reporting. This could compromise the strength of our disclosure laws and diminish transparency for the public.

Corporate Contributions

The U.S. Supreme Court decision last week in *Citizens United v. FEC* allows corporations and unions to spend freely on independent expenditures. However, please note that the *Citizens United* decision did NOT overturn the federal ban on corporate donations to candidates.

Given these details, we believe the Hawaii legislature can and should enact a ban or low limit on direct corporate contributions to candidates.

If the legislature decides to permit direct contributions from corporate treasuries, we strongly support the language in this bill which clarifies the mechanism—contributions from corporations and companies must flow through a noncandidate committee and be properly reported. We believe it is essential to have thorough, transparent reporting of these political donations from business interests.

This bill leaves blank the maximum amount of money that may transferred from a corporation's treasury to its noncandidate committee. We believe this should be zero, or a very low limit (such as the previously established \$1,000). As we have stated many times over the last couple years, we believe that campaign funds should come from individuals, not corporate treasuries.

Mahalo for the opportunity to submit testimony.