

SB2251

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STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
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February 6, 2010

TO: The Honorable Brian T. Taniguchi, Chair of the Senate Committee on Judiciary and Government Operations

The Honorable Dwight Y. Takamine, Vice-Chair of the Senate Committee on Judiciary and Government Operations

Members of the Senate Committee on Judiciary and Government Operations

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

SUBJECT: Testimony on S.B. No. 2251, Relating to Campaign Financing

February 9, 2010
10:00 a.m. in Conference room 016

Chair Taniguchi, Vice-Chair Takamine, and Members of the Senate Committee on Judiciary and Government Operations, thank you for hearing this bill and the opportunity to testify on this bill.

We strongly support S.B. No. 2251, which was introduced at the Campaign Spending Commission's (Commission) request.

This bill updates, organizes, and clarifies the current campaign finance laws and is drawn from H.B. No. 128, CD2 which was passed by the 2009 Legislature but vetoed by the Governor.¹

¹ We met with Linda Smith, the Governor's Senior Policy Adviser, and a member of her staff prior to the start of the 2010 session to brief her on the contents of this bill and to further address the four concerns in the Governor's statement of objections to H.B. 128 CD2.

- Concern: having 2 nominees to select Commissioners from rather than 10; Changed "2" back to "10". This was also discussed with the Chief Justice's office and they will not oppose this year.
- Concern: removing competitively bid contracts from contribution prohibition; Change: removed exception for competitively bid contracts.
- Concern: Collapse of 11-200 and 11-206 into one section, 11-UU; Explained the purpose of the change, that a candidate may change from 11-200 to 11-206 funds by merely filing a new organizational report.
- Concern: increase from 20% to 30% in the amount of nonresident contributions permitted in each reporting period; We left intact the language in HB 128 CD2 after explaining our concerns with the constitutionality of the current law and that this increase would take effect after the general election on November 2, 2010.

We made some changes to the language of H.B. 128 CD2 while drafting this SB. No. 2251 and those changes are summarized as follows:

- Added a new §11-A, relating to a Declaration of Policy, and §11-B, relating to construction of laws. These provisions were included in H.B. No. 128 (2009), the original recodification bill submitted by the Commission ;
- Clarify the definition of “advertisement” in §11-C by adding an “and”;
- Revise the definitions of “contribution” and “expenditure” in §11-C, relating to the “internet exemption,” to reflect current law;
- Revise the appointment of commissioners in §11-D to reflect current law by reinstating the requirement that the Judicial Selection Commission submit a list of ten nominees, rather than a list of two nominees.²
- Revise the provisions relating to contributions by state and county contractors prohibited, in §11-HH, to reflect current law so that the prohibition is applicable to all contractors, rather than narrowing the prohibition to contractors who are exempt from competitive bid solicitations;³
- Revise the provisions relating to permitted expenditures of campaign funds in §11-UU by removing the category for donations to schools, to reflect current law; and
- Revise the provisions relating to minimum qualifying contributions with respect to the candidates for the Board of Education and Office of Hawaiian Affairs applying for partial public funding in §11-UUU, to reflect current law

A ramseyer version showing all the changes, including changes to the section numbers, was presented to the Chair.

This bill would take effect on approval and its provisions would apply to reporting periods beginning after general election day November 2, 2010.

We recommend several minor changes to this bill:

- Amend the definitions of “contribution” and “expenditure” in §11-C to include an exemption for a “house bulletin.” We have listed in the following table all current references to a “house bulletin” in both current law and S.B. No. 2251. While this exemption is already in the current law in §11-211, the operation of the exemption is not readily apparent.

² Listed in the Governor’s statement of objections.

³ Listed in the Governor’s statement of objections.

Current law	H.B. No. 2003
N/A	§11-C "Advertisement" does not include: (1) A house bulletin...
N/A	<u>§11-C Recommend amending the definitions of "contribution"⁴ and "expenditure."</u>
§11-191 "House bulletin" means a communication sponsored by any person in the regular course of publication for limited distribution primarily to its employees or members.	§11-C "House bulletin" means a communication sponsored by any person in the regular course of publication for limited distribution primarily to its employees or members.
§11-207.6(c) "Electioneering communication" shall not include communications: ... (3) In in-house bulletins; or	§11-Z(c) "Electioneering communication" shall not include communications: ... (3) In house bulletins; or
§11-211 House bulletins. The costs of preparing, printing, and circulating house bulletins and the writings, drawings, and photographs contained therein, except for paid political advertisements, shall be exempt from the provisions of this subpart.	§11-ZZ House bulletins. The costs of preparing, printing, and circulating house bulletins and the writings, drawings, and photographs contained therein, except for paid advertisements, shall be exempt from the provisions of this part.

Recodification is long overdue

Our final point is that a recodification of the campaign finance laws is long overdue. The current campaign finance laws have their genesis in Act 185, Session Laws of Hawaii 1973. Over the past thirty-six years, numerous amendments have been made to the campaign finance laws in a piecemeal fashion and, apparently, with little regard to the laws as a whole. The result is laws

⁴ For example, the definition of contribution would be amended to read as follows:
 "Contribution" does not include:
 (1) Services voluntarily provided without compensation by individuals to or on behalf of a candidate, candidate committee, or noncandidate committee;
 (2) A candidate's expenditure of the candidate's own funds; provided that this expenditure shall be reported as other receipts and an expenditure;
 (3) Any loans or advances to the candidate committee; provided that these loans or advances shall be reported as loans; ~~or~~
 (4) An individual or candidate committee or noncandidate committee engaging in internet activities for the purpose of influencing an election... or
 (5) Expenditures for a house bulletin.

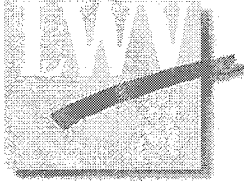
The definition of "expenditure" should also be amended in similar fashion.

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that are unorganized, difficult to read, and inconsistent in some areas. The current laws are in Part XII, subpart B of Hawaii Revised Statutes (HRS) chapter 11.

This bill organizes the campaign finance laws into a new part of HRS chapter 11, with ten subparts. Long and involved sections are divided into shorter sections with clear titles for quick reference. All the laws on one subject are grouped together, in contrast to the current laws that require a reader to search through the whole subpart for laws that may apply to that subject.

This bill is a product of the work of the Campaign Spending Commission's Blue Ribbon Recodification Committee (Committee). The Committee completed its work in 2008 after meeting regularly for nine months. The Committee was comprised of the Commission's staff and seventeen volunteer attorneys experienced in campaign finance law who represented diverse interests.



THE LEAGUE OF WOMEN VOTERS OF HAWAII

TESTIMONY ON SB 2251 RELATING TO CAMPAIGN FINANCING

Committee on Judiciary and Government Operations
Tuesday, February 9, 2010
10:00 a.m.
Conference Room 016

Testifier: Jean Aoki

Chair Taniguchi, Vice Chair Takamine, members of the JGO Committee,

The League of Women Voters of Hawaii sees a great improvement in SB 2251, and with a few amendments, we would strongly support its passage. It has cleaned up language to make certain policies clearer, and reorganized the laws so that they make more sense. It should remain what it is, a reorganization of the campaign spending laws, and not a vehicle for wholesale amending of those laws.

Our biggest concern is the change in the enforcement section of this bill. The current law states that failure to file reports on time or the filing of substantially deficient or defective reports shall be subject to fines. The language in this bill has been changed so that the commission "may assess a fine..." and that, "if assessed, shall not exceed \$50 a day...", etc.

Doesn't the change in the language from *shall* to *may* constitute a substantial change in policy, which this bill was not designed to do. We notice that the change is included in SB 2252 where it belongs.

We do applaud the reinstatement of the "Declaration of Policy."

Thank you for this opportunity to testify on SB 2251.