

JAN 26 2011

S.B. NO. 1114

A BILL FOR AN ACT

RELATING TO CAMPAIGNS.

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

1 SECTION 1. The legislature recognizes that the State has a
2 duty to its citizens to ensure that information concerning
3 campaign contributions and expenditures is readily available to
4 and easily accessible by the public. Disclosure is even more
5 important to the elections process in light of the dramatic
6 changes in contributions policy reflected in recent court cases,
7 such as *Citizens United v. Federal Election Commission*, 130
8 S.Ct. 876 (U.S. 2010).

9 In Hawaii, noncandidate committee reports and
10 electioneering communication reports document independent
11 campaign expenditures. The purpose of this Act is to increase
12 transparency by clarifying reporting requirements for election
13 contributions and expenditures and to require all entities,
14 except individuals, to register as noncandidate committees and
15 to comply with established reporting requirements.

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

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1 "§11- Campaign contributions; noncandidate committees.

2 A person who makes contributions or expenditures in an aggregate
3 amount of \$1,000 or more in a two-year election period to
4 influence the nomination for election, the election of any
5 candidate to political office, or for or against any issue on
6 the ballot, shall register as a noncandidate committee. For
7 purposes of this section, "person" does not include an
8 individual.

9 §11- Late expenditures; report. (a) The authorized
10 person that is a party or treasurer, in the case of a
11 noncandidate committee, that makes expenditures aggregating more
12 than \$500 fourteen calendar days through four calendar days
13 prior to any election shall file a late expenditures report by
14 means of the commission's electronic filing system on or before
15 the third calendar day prior to the election.

16 (b) The late expenditures report shall include the
17 information required in section 11-335(b) (2) and 11-335(b) (3).

18 (c) A late expenditures report filed pursuant to this
19 section shall be in addition to any other report required to be
20 filed by this part."

21 SECTION 3. Section 11-302, Hawaii Revised Statutes, is
22 amended is amended by amending the definitions of "candidate



1 committee", "expenditure", "noncandidate committee", and
2 "treasurer" to read as follows:

3 "Candidate committee" means an organization, association,
4 person, or individual that receives campaign funds, makes
5 expenditures, or incurs financial obligations on behalf of a
6 candidate with the candidate's authorization.

7 "Expenditure" means:

8 (1) Any purchase or transfer of money or anything of
9 value, or promise or agreement to purchase or transfer
10 money or anything of value, or payment incurred or
11 made, or the use or consumption of a nonmonetary
12 contribution for the purpose of:

13 (A) Influencing the nomination for election, or the
14 election, of any person seeking nomination for
15 election or election to office, whether or not
16 the person has filed the person's nomination
17 papers;

18 (B) Influencing the outcome of any question or issue
19 that has been certified to appear on the ballot
20 at the next applicable election; or

21 (C) Use by any party for the purposes set out in
22 subparagraph (A) or (B);



1 (2) Any payment, by any person other than a candidate,
2 candidate committee, or noncandidate committee, of
3 compensation for the services of another person that
4 are rendered to the candidate, candidate committee, or
5 noncandidate committee for any of the purposes
6 mentioned in paragraph (1) (A); provided that payment
7 under this paragraph shall include provision of
8 services without charge; or

9 (3) The expenditure by a candidate of the candidate's own
10 funds for the purposes set out in paragraph (1) (A).

11 "Expenditure" does not include:

12 (1) Services voluntarily provided without compensation by
13 individuals to or on behalf of a candidate, candidate
14 committee, or noncandidate committee;

15 (2) Voter registration efforts that are nonpartisan; or

16 (3) An individual [~~candidate committee, or noncandidate~~
17 ~~committee~~] engaging in internet activities for the
18 purpose of influencing an election if:

19 (A) The individual [~~candidate committee, or~~
20 ~~noncandidate committee~~] is uncompensated for
21 internet activities; or



1 (B) The individual [~~candidate committee, or~~
2 ~~noncandidate committee~~] uses equipment or
3 services for uncompensated internet activities,
4 regardless of who owns the equipment and
5 services;

6 provided that the internet activity exclusion does not
7 apply to any payment for an advertisement other than a
8 nominal fee; the purchase or rental of an electronic
9 address list made at the direction of a candidate
10 committee or noncandidate committee; or an electronic
11 mail address list that is transferred to a candidate
12 committee or noncandidate committee.

13 "Noncandidate committee" means an organization,
14 association, party, person, or individual that has the purpose
15 of making or receiving contributions, making expenditures, or
16 incurring financial obligations to influence the nomination for
17 election, or the election, of any candidate to office, or for or
18 against any question or issue on the ballot; provided that a
19 noncandidate committee does not include:

20 (1) A candidate committee;

21 (2) Any individual making a contribution or making an
22 expenditure of the individual's own funds or anything



1 of value that the individual originally acquired for
2 the individual's own use and not for the purpose of
3 evading any provision of this part; or

4 (3) Any organization that raises or expends funds for the
5 sole purpose of producing and disseminating
6 informational or educational communications that are
7 not made to influence the outcome of an election,
8 question, or issue on a ballot.

9 "Treasurer" means ~~[a person]~~ an individual appointed under
10 section 11-324 and unless expressly indicated otherwise,
11 includes deputy treasurers."

12 SECTION 4. Section 11-335, Hawaii Revised Statutes, is
13 amended by amending subsection (b) to read as follows:

14 "(b) Schedules filed with the reports shall include the
15 following additional information:

16 (1) The amount and date of deposit of each contribution
17 and the name, address, occupation, and employer of
18 each contributor making a contribution aggregating
19 more than \$100 during an election period, which was
20 not previously reported; provided that if all the
21 information is not on file, the contribution shall be



1 returned to the contributor within thirty days of
2 deposit;

3 (2) The amount and date of each contribution made and the
4 name and address of the candidate committee or
5 noncandidate committee to which the contribution was
6 made;

7 ~~[(2)]~~ (3) All expenditures, including the name and address
8 of each payee and the amount, date, and purpose of
9 each expenditure. Expenditures for consultants,
10 advertising agencies and similar firms, credit card
11 payments, salaries, and candidate reimbursements shall
12 be itemized to permit a reasonable person to determine
13 the ultimate intended recipient of the expenditure and
14 its purpose; provided that the purpose of an
15 independent expenditure shall include the name of the
16 candidate or candidates that are supported or opposed
17 by the expenditure and whether the expenditure
18 supports or opposes the candidate or candidates;

19 ~~[(3)]~~ (4) The amount, date of deposit, and description of
20 other receipts and the name and address of the source
21 of each of the other receipts;



1 than \$2,000 during any calendar year shall file with the
2 commission a statement of information within twenty-four hours
3 of each disclosure date provided in this section.

4 (b) Each statement of information shall contain the
5 following:

6 (1) The name of the person making the disbursement, name
7 of any person or entity sharing or exercising
8 discretion or control over such person, and the
9 custodian of the books and accounts of the person
10 making the disbursement;

11 (2) If the disbursement was made by a person other than an
12 individual, the names and titles of the executives who
13 authorized the disbursements or board of directors of
14 the entity;

15 ~~[-2-]~~ (3) The state of incorporation and principal place of
16 ~~[business]~~ the entity or, for an individual, the name,
17 address, occupation, and employer of the ~~[person]~~
18 individual making the disbursement;

19 ~~[-3-]~~ (4) The amount of each disbursement during the period
20 covered by the statement and the identification of the
21 person to whom the disbursement was made;



1 [~~(4)~~] (5) The elections to which the electioneering
2 communications pertain and the names, if known, of the
3 candidates identified or to be identified;

4 [~~(5)~~] (6) If the disbursements were made by a candidate
5 committee or noncandidate committee, the names and
6 addresses of all persons who contributed to the
7 candidate committee or noncandidate committee for the
8 purpose of publishing or broadcasting the
9 electioneering communications;

10 [~~(6)~~] (7) If the [~~disbursements were~~] disbursement was made
11 by an organization other than a candidate committee or
12 noncandidate committee, the names and addresses the
13 entities, and the names, addresses, occupations, and
14 employers of all [persons] individuals who contributed
15 to the organization for the purpose of publishing or
16 broadcasting the electioneering communications [~~and~~],
17 or if the disbursement was made from the general
18 treasury of the entity, the names and addresses of all
19 persons who contributed to the general treasury funds
20 designated for use as a campaign contribution during
21 the twelve months prior to making the disbursement;
22 and



1 [~~(7)~~] (8) Whether or not any electioneering communication
2 is made in coordination, cooperation, or concert with
3 or at the request or suggestion of any candidate,
4 candidate committee, or noncandidate committee, or
5 agent of any candidate if any, and if so, the
6 identification of the candidate, a candidate committee
7 or a noncandidate committee, or agent involved.

8 (c) For purposes of this section:

9 "Disclosure date" means, for every calendar year, the first
10 date by which a person has made disbursements during that same
11 year of more than \$2,000 in the aggregate for electioneering
12 communications, and the date of any subsequent disbursements by
13 that person for electioneering communications.

14 "Electioneering communication" means any advertisement that
15 is broadcast from a cable, satellite, television, or radio
16 broadcast station; published in any periodical or newspaper; or
17 sent by mail at a bulk rate, and that:

18 (1) Refers to a clearly identifiable candidate;

19 (2) Is made, or scheduled to be made, either within thirty
20 days prior to a primary or initial special election or
21 within sixty days prior to a general or special
22 election; and



1 (3) Is not susceptible to any reasonable interpretation
2 other than as an appeal to vote for or against a
3 specific candidate.

4 "Electioneering communication" shall not include
5 communications:

6 (1) In a news story or editorial disseminated by any
7 broadcast station or publisher of periodicals or
8 newspapers, unless the facilities are owned or
9 controlled by a candidate, candidate committee, or
10 noncandidate committee;

11 (2) That constitute expenditures by the disbursing
12 organization;

13 (3) In house bulletins; or

14 (4) That constitute a candidate debate or forum, or solely
15 promote a debate or forum and are made by or on behalf
16 of the person sponsoring the debate or forum.

17 (d) For purposes of this section, a person shall be
18 treated as having made a disbursement if the person has executed
19 a contract to make the disbursement.

20 (e) All reports required to be filed under this section
21 shall be filed on the commission's electronic filing system."



1 SECTION 7. Section 11-332, Hawaii Revised Statutes, is
2 repealed.

3 ~~["§11-332] Filing report by corporations. (a) A~~
4 ~~corporation shall file a report with the commission for~~
5 ~~contributions from its own treasury that aggregate more than~~
6 ~~\$1,000 per two year election period made directly to a candidate~~
7 ~~or candidate committee; provided that this section shall not~~
8 ~~authorize contributions to a candidate or candidate committee~~
9 ~~where otherwise prohibited by this part. The reporting shall be~~
10 ~~made pursuant to the time requirements contained in section 11-~~
11 ~~336 and section 11-338.~~

12 ~~(b) The filing shall include the name of the corporation,~~
13 ~~business address, a contact individual, and amounts contributed~~
14 ~~that are more than \$100 to each candidate or candidate~~
15 ~~committee."]~~

16 SECTION 8. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 9. This Act shall take effect upon its approval.

19

INTRODUCED BY:

Clarence K. Mikiham
Omaha Tani

[Handwritten signatures]



Report Title:

Noncandidate Committees; Campaign Contributions; Expenditure Reports

Description:

Adds new requirements regarding noncandidate committee registration and requires noncandidate committees to file late expenditures reports under certain circumstances. Requires noncandidate committees to make additional disclosures within their noncandidate committee reports. Repeals section 11-332, relating to reporting by corporations.

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