
A BILL FOR AN ACT

RELATING TO CAMPAIGN SPENDING.

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

1 SECTION 1. The legislature finds that the State has a duty
2 to the residents of Hawaii to ensure that information concerning
3 campaign contributions and expenditures is readily available to
4 and easily accessible by the public. Disclosure is now more
5 important than ever to the election process in light of the
6 dramatic changes in policy regarding corporate contributions as
7 reflected in the recent decision of the United States Supreme
8 Court in *Citizens United v. Federal Election Commission*, 130 S.
9 Ct. 876 (2010).

10 Accordingly, the purpose of this Act is to increase
11 transparency in campaign spending and accessibility to
12 information on campaign contributions and expenditures.

13 SECTION 2. Section 11-302, Hawaii Revised Statutes, is
14 amended by adding a new definition to be appropriately inserted
15 and to read as follows:

16 "Entity" means a partnership, a candidate committee or
17 noncandidate committee, a party, an association, a corporation,



1 a business entity, an organization, or a labor union and its
2 auxiliary committees."

3 SECTION 3. Section 11-314, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "[+]§11-314[+] **Duties of the commission.** The duties of
6 the commission under this part are to:

7 (1) Develop and adopt forms required by this part;

8 (2) Adopt and publish a manual for all candidates,
9 candidate committees, and noncandidate committees,
10 describing the requirements of this part, including
11 uniform and simple methods of recordkeeping;

12 (3) Preserve all reports required by this part for at
13 least ten years from the date of receipt by the
14 commission;

15 (4) Permit the inspection, copying, or [~~dupliating~~]
16 duplication of any report required by this part
17 pursuant to rules adopted by the commission under
18 chapter 91; provided that this paragraph shall not
19 apply to the sale or use of information under section
20 11-344;

21 (5) Ascertain whether any [~~candidate, candidate committee,~~
22 ~~noncandidate committee, or party~~] person has failed to



1 file a report required by this part or has filed a
2 substantially defective or deficient report. The
3 commission shall notify these persons by first class
4 mail that a fine may be assessed for the failure to
5 file or the filing of a substantially defective or
6 deficient report, and the defective or deficient
7 report shall be corrected and explained. All fines
8 collected under this section, as authorized by section
9 11-410, shall be deposited in the general fund of the
10 State;

- 11 (6) Hold public hearings;
- 12 (7) Investigate and hold hearings for receiving evidence
13 of any violations pursuant to subpart I of this part;
- 14 (8) Adopt rules pursuant to chapter 91;
- 15 (9) Request the initiation of prosecution for the
16 violation of this part pursuant to section 11-411;
- 17 (10) Administer and monitor the distribution of public
18 funds under this part;
- 19 (11) Suggest accounting methods for candidates, candidate
20 committees, or noncandidate committees in connection
21 with reports and records required by this part;

- 1 (12) Employ or contract with, without regard to chapters
2 76, 78, and 89, persons it finds necessary for the
3 performance of its functions, including a full-time
4 executive director, and to fix their compensation;
5 provided that the commission shall have the authority,
6 at its discretion, to dismiss persons employed by or
7 contracted with the commission;
- 8 (13) Conduct random audits and field investigations, as
9 necessary; and
- 10 (14) File for injunctive relief when indicated."

11 SECTION 4. Section 11-331, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§11-331 Filing of reports, generally.** (a) Every report
14 required to be filed by a candidate or candidate committee shall
15 be certified as complete and accurate by the candidate and
16 treasurer.

17 (b) Every report required to be filed by a noncandidate
18 committee shall be certified as complete and accurate by the
19 chairperson and treasurer.

20 (c) Every report required to be filed by an individual or
21 entity shall be certified as complete and accurate by that
22 individual or entity.



1 [~~e~~] (d) All reports required to be filed under this part
2 shall be filed on the commission's electronic filing system.

3 [~~d~~] (e) For purposes of this part, whenever a report is
4 required to be filed with the commission, "filed" means that a
5 report shall be filed with the commission's electronic filing
6 system by the date and time specified for the filing of the
7 report by:

8 (1) The candidate or candidate committee of a candidate
9 who is seeking election to the:

- 10 (A) Office of governor;
- 11 (B) Office of lieutenant governor;
- 12 (C) Office of mayor;
- 13 (D) Office of prosecuting attorney;
- 14 (E) County council;
- 15 (F) Senate;
- 16 (G) House of representatives; or
- 17 (H) Office of Hawaiian affairs; [~~e~~]

18 (2) A noncandidate committee required to be registered
19 with the commission pursuant to section 11-323~~(-)~~; or

20 (3) An entity.

21 [~~e~~] (f) To be timely filed, a committee's reports shall
22 be filed with the commission's electronic filing system on or



1 before 11:59 p.m. Hawaiian standard time on the filing date
2 specified.

3 ~~[(f)]~~ (g) All reports filed under this part are public
4 records~~[-]~~, and shall be made available for public inspection on
5 the commission's website in a searchable database.

6 (h) For the purposes of this part, "searchable database"
7 shall mean an online database that allows a person to, among
8 other things:

9 (1) Search any report required under this part by any
10 identifying element required in the reports;

11 (2) Ascertain through a single search the total amount of
12 contributions or expenditures for a person, party,
13 candidate, candidate committee, or noncandidate
14 committee for the applicable reporting period or
15 election period; and

16 (3) Download reports and data maintained in the database."

17 SECTION 5. Section 11-335, Hawaii Revised Statutes, is
18 amended to read as follows:

19 " ~~[(f)]~~ **§11-335** **Noncandidate committee reports.** (a) The
20 authorized person in the case of a party, or treasurer in the
21 case of a noncandidate committee that is not a party, shall file



1 preliminary, final, and supplemental reports that disclose the
2 following information:

- 3 (1) The noncandidate committee's name and address;
- 4 (2) The cash on hand at the beginning of the reporting
5 period and election period;
- 6 (3) The reporting period and election period aggregate
7 totals for each of the following categories:
- 8 (A) Contributions[+] received;
- 9 (B) Contributions made;
- 10 [~~(B)~~] (C) Expenditures; and
- 11 [~~(C)~~] (D) Other receipts;
- 12 (4) The cash on hand at the end of the reporting period;
- 13 and
- 14 (5) The surplus or deficit at the end of the reporting
15 period.

16 (b) Schedules filed with the reports shall include the
17 following additional information:

- 18 (1) The amount and date of deposit of each contribution
19 received and the name, address, occupation, and
20 employer of each contributor making a contribution
21 aggregating more than \$100 during an election period,
22 which was not previously reported; provided that if



1 all the information is not on file, the contribution
2 shall be returned to the contributor within thirty
3 days of deposit;

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

8 [~~2~~] (3) All expenditures, including the name and address
9 of each payee and the amount, date, and purpose of
10 each expenditure[-]; provided that:

11 (A) Expenditures for advertisements or electioneering
12 communication shall include the names, if known,
13 of the candidates identified or to be identified;

14 (B) Expenditures for consultants, advertising
15 agencies and similar firms, credit card payments,
16 salaries, and candidate reimbursements shall be
17 itemized to permit a reasonable person to
18 determine the ultimate intended recipient of the
19 expenditure and its purpose; and

20 (C) Independent expenditures shall include the name
21 of any candidate referenced;



1 (4) For noncandidate committees making independent
2 expenditures only, certification that no expenditures
3 have been coordinated with a candidate, candidate
4 committee, or noncandidate committee, or any agent of
5 a candidate, candidate committee, or noncandidate
6 committee;

7 [~~3~~] (5) The amount, date of deposit, and description of
8 other receipts and the name and address of the source
9 of each of the other receipts;

10 (6) A description of each durable asset, the date of
11 acquisition, value at the time of acquisition, and the
12 name and address of the vendor or contributor of the
13 asset; and

14 (7) The date of disposition of a durable asset, value at
15 the time of disposition, method of disposition, and
16 name and address of the person receiving the asset.

17 (c) No loan may be made or received by a noncandidate
18 committee.

19 (d) The authorized person in the case of a party, or
20 treasurer in the case of a noncandidate committee that is not a
21 party, shall file a late contribution report as provided in
22 section 11-338 if the committee receives late contributions from



1 any person aggregating more than \$500 or makes late
2 contributions aggregating more than \$500.

3 (e) For the purposes of this section, "electioneering
4 communication" shall have the same meaning as in section 11-
5 341."

6 SECTION 6. Section 11-337, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~§~~**11-337**~~§~~ **Reporting expenditures.** (a) For purposes
9 of this part, an expenditure is deemed to be made or incurred
10 when the services are rendered or the product is delivered.
11 Services rendered or products delivered for use during a
12 reporting period are deemed delivered or rendered during the
13 period or periods of use; provided that these expenditures shall
14 be reasonably allocated between periods in accordance with the
15 time the services or products are actually used.

16 (b) Any expenditure that is contracted or paid for and
17 that is to be rendered during the last three days of an election
18 period shall also be included in a late expenditure report."

19 SECTION 7. Section 11-338, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "~~§~~**11-338**~~§~~ **Late contributions; late expenditures;**
22 **report.** (a) The candidate, authorized person in the case of a



1 noncandidate committee that is a party, or treasurer in the case
2 of a candidate committee or other noncandidate committee, that,
3 within the period of fourteen calendar days through four
4 calendar days prior to any election, makes contributions
5 aggregating more than \$500, or receives contributions from any
6 person aggregating more than \$500, shall file a late
7 contribution report by means of the commission's electronic
8 filing system on or before the third calendar day prior to the
9 election.

10 (b) The late contribution report shall include the
11 following information:

12 (1) Name, address, occupation, and employer of the
13 contributor;

14 (2) Name of the candidate, candidate committee, or
15 noncandidate committee making or receiving the
16 contribution;

17 (3) The amount of the contribution~~[+]~~ received;

18 (4) The amount of the contribution made;

19 ~~[(4)]~~ (5) The contributor's aggregate contributions to the
20 candidate, candidate committee, or noncandidate
21 committee; and



1 ~~[(5)]~~ (6) The purpose, if any, to which the contribution
2 will be applied~~[-]~~, including, for contributions to a
3 noncandidate committee, the name of any candidate
4 referenced.

5 (c) An entity other than a candidate or candidate
6 committee that, within the period of fourteen calendar days
7 through four calendar days prior to any election, makes
8 contributions or independent expenditures, in an aggregate
9 amount of more than \$500, shall file a late report by means of
10 the commission's electronic filing system on or before the third
11 calendar day prior to the election. The report shall disclose
12 the following information:

13 (1) The amount, date, and recipient of each contribution
14 made to a candidate, candidate committee, or
15 noncandidate committee;

16 (2) The vendor name, address, and contact information for
17 each expenditure;

18 (3) The amount and date of each expenditure; and

19 (4) The purpose of each expenditure, including the name of
20 any candidate referenced directly or indirectly by the
21 expenditure.



1 ~~[(e)]~~ (d) A late contribution report filed pursuant to
2 this section shall be in addition to any other report required
3 to be filed by this part."

4 SECTION 8. Section 11-340, Hawaii Revised Statutes, is
5 amended by amending subsection (a) to read as follows:

6 "(a) True and accurate reports shall be filed with the
7 commission on or before the due dates specified in this part.
8 The commission may assess a fine against a ~~[candidate committee~~
9 ~~or noncandidate committee]~~ person that is required to file a
10 report under this part if the report is not filed by the due
11 date or if the report is substantially defective or deficient,
12 as determined by the commission."

13 SECTION 9. Section 11-341, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "~~[(+)]§11-341[+]~~ **Electioneering communications; statement of**
16 **information.** (a) Each person who makes ~~[a disbursement]~~ an
17 expenditure for electioneering communications in an aggregate
18 amount of more than \$2,000 during any calendar year shall file
19 with the commission a statement of information within twenty-
20 four hours of each disclosure date provided in this section.

21 (b) Each statement of information shall contain the
22 following:



- 1 (1) The name of the person making the [~~disbursement,~~
2 expenditure, name of any person or entity sharing or
3 exercising discretion or control over [~~such~~] the
4 person, and the custodian of the books and accounts of
5 the person making the [~~disbursement,~~] expenditure;
- 6 (2) If the expenditure was made by an entity, the names
7 and titles of the executives or board of directors who
8 authorized the expenditure;
- 9 [+2+] (3) The state of incorporation or formation and
10 principal [~~place of business~~] address of the entity
11 or, for an individual, the name, address, occupation,
12 and employer of the [~~person~~] individual making the
13 [~~disbursement,~~] expenditure;
- 14 [+3+] (4) The amount of each [~~disbursement~~] expenditure
15 during the period covered by the statement and the
16 identification of the person to whom the disbursement
17 was made;
- 18 [+4+] (5) The elections to which the electioneering
19 communications pertain and the ballot issue or names [~~,~~
20 ~~if known, of the~~] of any candidates [~~identified or to~~
21 ~~be identified,~~] referenced;



1 ~~[(+5)]~~ (6) If the ~~[disbursements]~~ expenditures were made by
2 a candidate committee or noncandidate committee, the
3 names and addresses of all persons who contributed to
4 the candidate committee or noncandidate committee for
5 the purpose of publishing or broadcasting the
6 electioneering communications;

7 ~~[(+6)]~~ (7) If the ~~[disbursements]~~ expenditures were made by
8 an ~~[organization]~~ entity other than a candidate
9 committee or noncandidate committee, the names and
10 addresses of all persons who contributed to the
11 ~~[organization]~~ entity for the purpose of publishing or
12 broadcasting the electioneering communications; and

13 ~~[(+7)]~~ (8) Whether or not any electioneering communication
14 is made in coordination, cooperation, or concert with
15 or at the request or suggestion of any candidate,
16 candidate committee, or noncandidate committee, or
17 agent of any candidate if any, and if so, the
18 identification of the candidate, ~~[a]~~ candidate
19 committee, or ~~[a]~~ noncandidate committee, or agent
20 involved.



1 (c) An electioneering communication report filed pursuant
2 to this section shall be in addition to any other report
3 required to be filed pursuant to this part.

4 [~~e~~] (d) For purposes of this section:

5 "Disclosure date" means, for every calendar year, the first
6 date by which a person has made [~~disbursements~~] expenditures
7 during that same year of more than \$2,000 in the aggregate for
8 electioneering communications, and the date of any subsequent
9 [~~disbursements~~] expenditures by that person for electioneering
10 communications.

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

- 15 (1) Refers to a clearly identifiable candidate;
- 16 (2) Is made, or scheduled to be made, either within thirty
17 days prior to a primary or initial special election or
18 within sixty days prior to a general or special
19 election; and
- 20 (3) Is not susceptible to any reasonable interpretation
21 other than as an appeal to vote for or against a
22 specific candidate.



1 "Electioneering communication" shall not include
2 communications:

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

8 (2) That constitute expenditures by the disbursing
9 organization;

10 (3) In house bulletins; or

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

14 [~~d~~] (e) For purposes of this section, a person shall be
15 treated as having made [~~a disbursement~~] an expenditure if the
16 person has executed a contract to make [~~the disbursement.~~] the
17 expenditure."

18 SECTION 10. Section 11-391, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "[~~§~~§11-391[~~§~~] **Advertisements.** (a) Any advertisement
21 that is broadcasted, televised, circulated, or published,
22 including by electronic means, shall contain:



1 (1) The name and address of the candidate, candidate
2 committee, noncandidate committee, or other person
3 paying for the advertisement; and

4 (2) A notice in a prominent location stating either that:

5 (A) The advertisement [~~is published, broadcast,~~
6 ~~televised, or circulated with~~] has the approval
7 and authority of the candidate; provided that an
8 advertisement paid for by a candidate, candidate
9 committee, or ballot issue committee does not
10 need to include the notice; or

11 (B) The advertisement [~~is published, broadcast,~~
12 ~~televised, or circulated without the approval and~~
13 ~~authority of~~] has not been approved by the
14 candidate.

15 (b) If the advertisement is paid for by a person other
16 than a candidate or candidate committee, the advertisement shall
17 also contain an additional notice in a prominent location
18 immediately after or below the notices required under subsection
19 (a). This notice shall include the following words, as the case
20 may be:

21 (1) "The top donors for this advertisement are", to be
22 followed by the names of the contributors that have



1 made the five greatest aggregate contributions for the
2 purposes of the advertisement; or
3 (2) "The top donors for this entity are", to be followed
4 by the names of the contributors that have made the
5 five greatest aggregate contributions during the
6 election cycle.

7 ~~[(b)]~~ (c) The fine for violation of this section, if
8 assessed by the commission, shall not exceed \$25 for each
9 advertisement that lacks the information required by this
10 section, and shall not exceed an aggregate amount of \$5,000."

11 SECTION 11. Section 11-332, Hawaii Revised Statutes, is
12 repealed.

13 ~~["§11-332] Filing report by corporations. (a) A~~
14 ~~corporation shall file a report with the commission for~~
15 ~~contributions from its own treasury that aggregate more than~~
16 ~~\$1,000 per two year election period made directly to a candidate~~
17 ~~or candidate committee; provided that this section shall not~~
18 ~~authorize contributions to a candidate or candidate committee~~
19 ~~where otherwise prohibited by this part. The reporting shall be~~
20 ~~made pursuant to the time requirements contained in section 11-~~
21 ~~336 and section 11-338.~~



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

5 SECTION 12. The campaign spending commission shall enhance
6 its website to make all reports required by part XIII of chapter
7 11, Hawaii Revised Statutes, available to the public by a
8 searchable database as defined in section 11-331(h), Hawaii
9 Revised Statutes, within three hundred sixty days of the
10 effective date of this Act.

11 SECTION 13. The campaign spending commission shall adopt,
12 amend, or repeal rules, pursuant to chapter 91, Hawaii Revised
13 Statutes, to ensure proper disclosure of contributions and
14 expenditures consistent with part XIII of chapter 11, Hawaii
15 Revised Statutes, and shall prescribe the methods and
16 requirements for a "person", as defined in section 11-302,
17 Hawaii Revised Statutes, to include both noncandidate committees
18 and corporations, to file a statement of information for each
19 disbursement for electioneering communications in an aggregate
20 amount of \$2,000 or more during any calendar year pursuant to
21 section 11-341, Hawaii Revised Statutes, within three hundred
22 sixty days of the effective date of this Act.



1 SECTION 14. The executive director of the campaign
2 spending commission shall promptly notify the legislature in
3 writing upon the adoption, amendment, or repeal of
4 administrative rules ensuring proper disclosure of contributions
5 and expenditures consistent with part XIII of chapter 11, Hawaii
6 Revised Statutes, and prescribing the methods and requirements
7 for a "person", as defined in section 11-302, Hawaii Revised
8 Statutes, to include both noncandidate committees and
9 corporations, to file a statement of information for each
10 disbursement for electioneering communications in an aggregate
11 amount of \$2,000 or more during any calendar year pursuant to
12 section 11-341, Hawaii Revised Statutes. The executive director
13 of the campaign spending commission shall also provide statewide
14 public notice of the adoption, amendment, or repeal of rules
15 pursuant to section 1-28.5, Hawaii Revised Statutes.

16 SECTION 15. If any provision of this Act, or the
17 application thereof to any person or circumstance, is held
18 invalid, the invalidity does not affect other provisions or
19 applications of the Act that can be given effect without the
20 invalid provision or application, and to this end the provisions
21 of this Act are severable.



1 SECTION 16. This Act does not affect rights and duties
2 that matured, penalties that were incurred, and proceedings that
3 were begun before its effective date.

4 SECTION 17. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 18. This Act shall take effect on January 7, 2059.



Report Title:

Campaign Finance; Expenditures; Electioneering Communications;
Reporting

Description:

Requires the Campaign Spending Commission to maintain public records in a searchable database. Adds a definition for "entity". Amends reporting requirements for persons and entities. Authorizes the Commission to monitor and penalize all persons failing to report campaign spending. Mandates that the Commission implement rules for campaign spending consistent with campaign spending laws within 360 days of the effective date of this Act. Effective January 7, 2009. (HB2174 HD1)

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

