
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 11-314, Hawaii Revised Statutes, is
14 amended to read as follows:

15 "**[+}\$11-314[+]** **Duties of the commission.** The duties of
16 the commission under this part are to:

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



- 1 (2) Adopt and publish a manual for all candidates,
2 candidate committees, and noncandidate committees,
3 describing the requirements of this part, including
4 uniform and simple methods of recordkeeping;
- 5 (3) Preserve all reports required by this part for at
6 least ten years from the date of receipt by the
7 commission;
- 8 (4) Permit the inspection, copying, or [~~duplicating~~]
9 duplication of any report required by this part
10 pursuant to rules adopted by the commission under
11 chapter 91; provided that this paragraph shall not
12 apply to the sale or use of information under section
13 11-344;
- 14 (5) Ascertain whether any [~~candidate, candidate committee,~~
15 ~~noncandidate committee, or party~~] person has failed to
16 file a report required by this part or has filed a
17 substantially defective or deficient report. The
18 commission shall notify these persons by first class
19 mail that a fine may be assessed for the failure to
20 file or the filing of a substantially defective or
21 deficient report, and the defective or deficient
22 report shall be corrected and explained. All fines



1 collected under this section, as authorized by
2 [~~section~~] sections 11-340 and 11-410, shall be
3 deposited in the general fund of the State;

4 (6) Hold public hearings;

5 (7) Investigate and hold hearings for receiving evidence
6 of any violations pursuant to subpart I of this part;

7 (8) Adopt rules pursuant to chapter 91;

8 (9) Request the initiation of prosecution for the
9 violation of this part pursuant to section 11-411;

10 (10) Administer and monitor the distribution of public
11 funds under this part;

12 (11) Suggest accounting methods for candidates, candidate
13 committees, or noncandidate committees in connection
14 with reports and records required by this part;

15 (12) Employ or contract with, without regard to chapters
16 76, 78, and 89, persons it finds necessary for the
17 performance of its functions, including a full-time
18 executive director, and to fix their compensation;
19 provided that the commission shall have the authority,
20 at its discretion, to dismiss persons employed by or
21 contracted with the commission;



1 (13) Conduct random audits and field investigations, as
2 necessary; and

3 (14) File for injunctive relief when indicated."

4 SECTION 3. Section 11-331, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "§11-331 **Filing of reports, generally.** (a) Every report
7 required to be filed by a candidate or candidate committee shall
8 be certified as complete and accurate by the candidate and
9 treasurer.

10 (b) Every report required to be filed by a noncandidate
11 committee shall be certified as complete and accurate by the
12 chairperson and treasurer.

13 (c) All reports required to be filed under this part shall
14 be filed on the commission's electronic filing system.

15 (d) For purposes of this part, whenever a report is
16 required to be filed with the commission, "filed" means that a
17 report shall be filed with the commission's electronic filing
18 system by the date and time specified for the filing of the
19 report by:

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

22 (A) Office of governor;



1 (B) Office of lieutenant governor;

2 (C) Office of mayor;

3 (D) Office of prosecuting attorney;

4 (E) County council;

5 (F) Senate;

6 (G) House of representatives; or

7 (H) Office of Hawaiian affairs; or

8 (2) A noncandidate committee required to be registered
9 with the commission pursuant to section 11-323.

10 (e) To be timely filed, a committee's reports shall be
11 filed with the commission's electronic filing system on or
12 before 11:59 p.m. Hawaiian standard time on the filing date
13 specified.

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

17 (g) For the purposes of this part, "searchable database"
18 shall mean an online database that allows a person to, among
19 other things:

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



- 1 (2) Ascertain through a single search the total amount of
2 contributions or expenditures for a person, party,
3 candidate, candidate committee, or noncandidate
4 committee for the applicable reporting period or
5 election period; and
- 6 (3) Download reports and data maintained in the database."

7 SECTION 4. Section 11-335, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[~~§~~§11-335[~~§~~] **Noncandidate committee reports.** (a) The
10 authorized person in the case of a party, or treasurer in the
11 case of a noncandidate committee that is not a party, shall file
12 preliminary, final, and supplemental reports that disclose the
13 following information:

- 14 (1) The noncandidate committee's name and address;
- 15 (2) The cash on hand at the beginning of the reporting
16 period and election period;
- 17 (3) The reporting period and election period aggregate
18 totals for each of the following categories:
- 19 (A) Contributions[~~§~~] received;
- 20 (B) Contributions made;
- 21 [~~(B)~~] (C) Expenditures; and
- 22 [~~(C)~~] (D) Other receipts;



1 (4) The cash on hand at the end of the reporting period;
2 and

3 (5) The surplus or deficit at the end of the reporting
4 period.

5 (b) Schedules filed with the reports shall include the
6 following additional information:

7 (1) The amount and date of deposit of each contribution
8 received and the name, address, occupation, and
9 employer of each contributor making a contribution
10 aggregating more than \$100 during an election period,
11 which was not previously reported; provided that if
12 all the information is not on file, the contribution
13 shall be returned to the contributor within thirty
14 days of deposit;

15 (2) The amount and date of each contribution made, and the
16 name and address of the candidate, candidate
17 committee, or noncandidate committee to which the
18 contribution was made; and

19 ~~[-(2)-]~~ (3) All expenditures, including the name and address
20 of each payee and the amount, date, and purpose of
21 each expenditure [-]; provided that:



- 1 (A) Expenditures for advertisements or electioneering
2 communication shall include the names of the
3 candidates identified or to be identified;
- 4 (B) Expenditures for consultants, advertising
5 agencies and similar firms, credit card payments,
6 salaries, and candidate reimbursements shall be
7 itemized to permit a reasonable person to
8 determine the ultimate intended recipient of the
9 expenditure and its purpose; and
- 10 (C) Independent expenditures shall include the name
11 of any candidate referenced;
- 12 (4) For noncandidate committees making independent
13 expenditures only, certification that no expenditures
14 have been coordinated with a candidate, candidate
15 committee, or any agent of a candidate or candidate
16 committee;
- 17 ~~[-(3)-]~~ (5) The amount, date of deposit, and description of
18 other receipts and the name and address of the source
19 of each of the other receipts;
- 20 ~~[-(4)-]~~ (6) A description of each durable asset, the date of
21 acquisition, value at the time of acquisition, and the



1 name and address of the vendor or contributor of the
2 asset; and

3 ~~[(5)]~~ (7) The date of disposition of a durable asset, value
4 at the time of disposition, method of disposition, and
5 name and address of the person receiving the asset.

6 (c) No loan may be made or received by a noncandidate
7 committee.

8 (d) The authorized person in the case of a party, or
9 treasurer in the case of a noncandidate committee that is not a
10 party, shall file a late contribution report as provided in
11 section 11-338 if the committee receives late contributions from
12 any person aggregating more than \$500 or makes late
13 contributions aggregating more than \$500.

14 (e) For the purposes of this section, "electioneering
15 communication" shall have the same meaning as in section
16 11-341."

17 SECTION 5. Section 11-337, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "[~~§~~11-337~~§~~] **Reporting expenditures.** (a) For purposes
20 of this part, an expenditure is deemed to be made or incurred
21 when the services are rendered or the product is delivered.

22 Services rendered or products delivered for use during a



1 reporting period are deemed delivered or rendered during the
2 period or periods of use; provided that these expenditures shall
3 be reasonably allocated between periods in accordance with the
4 time the services or products are actually used.

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

8 SECTION 6. Section 11-338, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "[+]§11-338[+] **Late contributions; late expenditures;**
11 **report.** (a) The candidate, authorized person in the case of a
12 noncandidate committee that is a party, or treasurer in the case
13 of a candidate committee or other noncandidate committee, that,
14 within the period of fourteen calendar days through four
15 calendar days prior to any election, makes contributions
16 aggregating more than \$500, or receives contributions from any
17 person aggregating more than \$500, shall file a late
18 contribution report by means of the commission's electronic
19 filing system on or before the third calendar day prior to the
20 election.

21 (b) The late contribution report shall include the
22 following information:



- 1 (1) Name, address, occupation, and employer of the
2 contributor;
- 3 (2) Name of the candidate, candidate committee, or
4 noncandidate committee making or receiving the
5 contribution;
- 6 (3) The amount of the contribution[+] received;
- 7 (4) The amount of the contribution made;
- 8 [~~4~~] (5) The contributor's aggregate contributions to the
9 candidate, candidate committee, or noncandidate
10 committee; and
- 11 [~~5~~] (6) The purpose, if any, to which the contribution
12 will be applied[+], including, for contributions to a
13 noncandidate committee, the name of any candidate
14 referenced.
- 15 (c) A noncandidate committee that, within the period of
16 fourteen calendar days through four calendar days prior to any
17 election, makes contributions or independent expenditures, in an
18 aggregate amount of more than \$500, shall file a late report by
19 means of the commission's electronic filing system on or before
20 the third calendar day prior to the election. The report shall
21 disclose the following information:



- 1 (1) The amount, date, and recipient of each contribution
2 made to a candidate, candidate committee, or
3 noncandidate committee;
- 4 (2) The vendor name, address, and contact information for
5 each expenditure;
- 6 (3) The amount and date of each expenditure; and
- 7 (4) The purpose of each expenditure, including the name of
8 any candidate referenced directly or indirectly by the
9 expenditure.

10 ~~[-e-]~~ (d) A late contribution report or late expenditure
11 report filed pursuant to this section shall be in addition to
12 any other report required to be filed by this part."

13 SECTION 7. Section 11-340, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) True and accurate reports shall be filed with the
16 commission on or before the due dates specified in this part.
17 The commission may assess a fine against a [~~candidate committee~~
18 ~~or noncandidate committee~~] person that is required to file a
19 report under this part if the report is not filed by the due
20 date or if the report is substantially defective or deficient,
21 as determined by the commission."



1 SECTION 8. Section 11-341, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[+]§11-341[+] **Electioneering communications; statement of**
4 **information.** (a) Each person who makes [~~a disbursement~~] an
5 expenditure for electioneering communications in an aggregate
6 amount of more than \$2,000 during any calendar year shall file
7 with the commission a statement of information within twenty-
8 four hours of each disclosure date provided in this section.

9 (b) Each statement of information shall contain the
10 following:

11 (1) The name of the person making the [~~disbursement,~~]
12 expenditure, name of any person or entity sharing or
13 exercising discretion or control over [~~such~~] the
14 person, and the custodian of the books and accounts of
15 the person making the [~~disbursement,~~] expenditure;

16 (2) If the expenditure was made by a noncandidate
17 committee, business entity, or an organization, the
18 names and titles of the executives or board of
19 directors who authorized the expenditure;

20 [~~(2)~~] (3) The state of incorporation or formation and
21 principal [~~place of business~~] address of the
22 noncandidate committee, business entity, or



1 organization or, for an individual, the name, address,
2 occupation, and employer of the ~~[person]~~ individual
3 making the ~~[disbursement,]~~ expenditure;

4 ~~[-3-]~~ (4) The amount of each ~~[disbursement]~~ expenditure
5 during the period covered by the statement and the
6 identification of the person to whom the
7 ~~[disbursement]~~ expenditure was made;

8 ~~[-4-]~~ (5) The elections to which the electioneering
9 communications pertain and the ballot issue or names~~[-~~
10 ~~if known, of the]~~ of any candidates ~~[identified or to~~
11 ~~be identified,]~~ referenced;

12 ~~[-5-]~~ (6) If the ~~[disbursements]~~ expenditures were made by
13 a candidate committee or noncandidate committee, the
14 names and addresses of all persons who contributed to
15 the candidate committee or noncandidate committee for
16 the purpose of publishing or broadcasting the
17 electioneering communications;

18 ~~[-6-]~~ (7) If the ~~[disbursements]~~ expenditures were made by
19 an organization other than a candidate committee or
20 noncandidate committee, the names and addresses of all
21 persons who contributed to the organization for the



1 purpose of publishing or broadcasting the
2 electioneering communications; ~~and~~
3 ~~(7)~~ (8) Whether or not any electioneering communication
4 is made in coordination, cooperation, or concert with
5 or at the request or suggestion of any candidate,
6 candidate committee, or noncandidate committee, or
7 agent of any candidate if any, and if so, the
8 identification of the candidate, [a] candidate
9 committee, or [a] noncandidate committee, or agent
10 involved~~[-]~~; and
11 (9) The top donors for the advertisement or the top donors
12 for the noncandidate committee, business entity, or
13 organization, as required under section 11-391(b).
14 (c) An electioneering communication statement of
15 information filed pursuant to this section shall be in addition
16 to any other report required to be filed pursuant to this part.
17 ~~(e)~~ (d) For purposes of this section:
18 "Disclosure date" means, for every calendar year, the first
19 date by which a person has made ~~disbursements~~ expenditures
20 during that same year of more than \$2,000 in the aggregate for
21 electioneering communications, and the date of any subsequent



1 [disbursements] expenditures by that person for electioneering
2 communications.

3 "Electioneering communication" means any advertisement that
4 is broadcast from a cable, satellite, television, by electronic
5 means, or radio broadcast station; published in any periodical
6 or newspaper; or sent by mail at a bulk rate, and that:

7 (1) Refers to a clearly identifiable candidate;

8 (2) Is made, or scheduled to be made, either within thirty
9 days prior to a primary or initial special election or
10 within sixty days prior to a general or special
11 election; and

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

15 "Electioneering communication" shall not include
16 communications:

17 (1) In a news story or editorial disseminated by any
18 broadcast station or publisher of periodicals or
19 newspapers, unless the facilities are owned or
20 controlled by a candidate, candidate committee, or
21 noncandidate committee;



- 1 (2) That constitute expenditures by the [~~disbursing~~
2 expending organization;
3 (3) In house bulletins; or
4 (4) That constitute a candidate debate or forum, or solely
5 promote a debate or forum and are made by or on behalf
6 of the person sponsoring the debate or forum.

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

11 SECTION 9. Section 11-391, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[~~§~~§11-391[~~§~~] **Advertisements.** (a) Any advertisement
14 that is broadcasted, televised, circulated, or published,
15 including by electronic means, shall contain:

- 16 (1) The name and address of the candidate, candidate
17 committee, noncandidate committee, or other person
18 paying for the advertisement; and
19 (2) A notice in a prominent location stating either that:
20 (A) The advertisement [~~is published, broadcast,~~
21 ~~televised, or circulated with~~] has the approval
22 and authority of the candidate; provided that an



1 advertisement paid for by a candidate, candidate
2 committee, or ballot issue committee does not
3 need to include the notice; or

4 (B) The advertisement [~~is published, broadcast,~~
5 ~~televised, or circulated without the approval and~~
6 ~~authority of]~~ has not been approved by the
7 candidate.

8 (b) If the advertisement is paid for by a person other
9 than a candidate or candidate committee, the advertisement shall
10 also contain an additional notice in a prominent location
11 immediately after or below the notices required under subsection
12 (a). This notice shall include the following words, as the case
13 may be:

14 (1) "The top donors for this advertisement are", to be
15 followed by the names of the contributors that have
16 made the five greatest aggregate contributions for the
17 purposes of the advertisement; or

18 (2) "The top donors for this business entity are", or "The
19 top donors for this noncandidate committee are", or
20 "The top donors for this organization are", as
21 appropriate, to be followed by the names of the
22 contributors that have made the five greatest



1 aggregate contributions during the election period, as
2 determined by the records of contributions made during
3 the twelve month period prior to the date of the
4 advertisement.

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

9 SECTION 10. Section 11-332, Hawaii Revised Statutes, is
10 repealed.

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

20 ~~(b) The filing shall include the name of the corporation,~~
21 ~~business address, a contact individual, and amounts contributed~~



1 ~~that are more than \$100 to each candidate or candidate~~
2 ~~committee."]~~

3 SECTION 11. The campaign spending commission shall enhance
4 its website to make all reports required by part XIII of chapter
5 11, Hawaii Revised Statutes, available to the public by a
6 searchable database as defined in section 11-331(h), Hawaii
7 Revised Statutes.

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

20 SECTION 13. The executive director of the campaign
21 spending commission shall promptly notify the legislature in
22 writing upon the adoption, amendment, or repeal of



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

13 SECTION 14. If any provision of this Act, or the
14 application thereof to any person or circumstance, is held
15 invalid, the invalidity does not affect other provisions or
16 applications of the Act that can be given effect without the
17 invalid provision or application, and to this end the provisions
18 of this Act are severable.

19 SECTION 15. This Act does not affect rights and duties
20 that matured, penalties that were incurred, and proceedings that
21 were begun before its effective date.



1 SECTION 16. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 17. This Act shall take effect three hundred sixty
4 days after November 7, 2012; provided that section 10 of this
5 Act shall take effect on November 7, 2012.



Report Title:

Campaign Finance; Expenditures; Electioneering Communications; Reporting

Description:

Requires the Campaign Spending Commission to maintain public records in a searchable database. Amends reporting requirements for persons and organizations. 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 360 days after 11/07/12. (SD1)

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

