
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 national policy for corporate contributions
7 as 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 The legislature further finds that under Hawaii law,
11 noncandidate committee reports and electioneering communications
12 reports document some independent campaign expenditures, but
13 that more detail is needed to ensure transparency.

14 Accordingly, the purpose of this Act is to improve
15 transparency by, among other things:

16 (1) Clarifying reporting requirements in noncandidate
17 committee and electioneering communications reports;



- 1 (2) Ensuring disclosure for persons other than
- 2 individuals, candidates, candidate committees, and
- 3 noncandidate committees, including the disclosure of
- 4 independent expenditures;
- 5 (3) Requiring reporting of late expenditures;
- 6 (4) Improving disclosure in advertisements; and
- 7 (5) Ensuring disclosure in cases of transferred funds.

8 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
 9 by adding three new sections to part XIII, to be appropriately
 10 designated and to read as follows:

11 **"§11-A Registration of persons other than individuals,**
 12 **candidates, candidate committees, and noncandidate committees.**

13 All persons other than individuals, candidates, candidate
 14 committees, and noncandidate committees required to file a
 15 report with the commission under section 11-B shall also
 16 register with the commission. The registration shall include:

- 17 (1) The person's name, address, and telephone number; and
- 18 (2) The name and telephone number of a contact individual,
- 19 if different from that reported in paragraph (1).

20 **§11-B Filing reports by persons other than individuals,**
 21 **candidates, candidate committees, and noncandidate committees.**

22 (a) A person other than an individual, candidate, candidate



1 committee, or noncandidate committee shall file a report with
2 the commission for contributions to candidates, candidate
3 committees, or noncandidate committees, or independent
4 expenditures that aggregate more than \$1,000 per two-year
5 election period; provided that this section shall not authorize
6 contributions to a candidate, candidate committee, or
7 noncandidate committee that are otherwise prohibited by this
8 part. The reporting shall be made pursuant to the time
9 requirements contained in sections 11-336 and 11-338.

10 (b) The preliminary, final, and supplemental reports shall
11 disclose the following information:

12 (1) The person's name and address;

13 (2) The aggregate totals for the reporting period and
14 election period for the following categories:

15 (A) Contributions made to candidates, candidate
16 committees, and noncandidate committees; and

17 (B) Independent expenditures; and

18 (3) Certification by the chief executive officer, owner,
19 board chairperson, or, if none, the title of any other
20 individual performing functions corresponding to those
21 performed by such individuals, that no expenditures
22 have been coordinated with a candidate, candidate



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1 committee, or noncandidate committee, or an agent of a
2 candidate, candidate committee, or noncandidate
3 committee.

4 (c) Schedules filed with the reports shall include the
5 following additional information:

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

10 (2) Each independent expenditures, including the name and
11 address of each payee and the amount, date, and
12 purpose of the expenditure; provided that:

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

19 (B) The purpose of an independent expenditure shall
20 include the name of any candidate who is
21 supported or opposed by the expenditure, and



1 whether the expenditure supports or opposes the
2 candidate.

3 (d) If a person other than an individual, candidate,
4 candidate committee, or noncandidate committee, in addition to
5 using the person's own funds, solicits or accepts donations from
6 other persons for the purpose of influencing an election, the
7 person shall register with the commission and file a report to
8 the commission as required under sections 11-335, 11-336, and
9 11-338.

10 (e) A persons other than an individual, candidate,
11 candidate committee, or noncandidate committee covered under
12 this part that makes a contribution or an independent
13 expenditure for political purposes, or makes an expenditure for
14 an electioneering communication shall place on the person's
15 website, in a prominent place:

16 (1) A notice that the person is engaging or has engaged in
17 political activity; and

18 (2) A link to all reports filed by the person with the
19 commission, or if the official filing is not available
20 online, other relevant information about how to obtain
21 a copy of reports filed by the person.



1 §11-C Transfers of funds. (a) If any person other than
2 an individual makes a transfer of funds to another person for
3 the purpose of making an independent expenditure or
4 electioneering communication, the person shall be treated as
5 making an independent expenditure or electioneering
6 communication and the person shall be required to file a report
7 to the commission as required under sections 11-335, 11-336, and
8 11-338.

9 (b) A person shall be deemed to have transferred funds for
10 the purpose of making campaign-related expenditures if:

- 11 (1) The funds have been solicited for such purpose;
- 12 (2) There have been substantial discussions about such
13 expenditures between the person making the transfer
14 and the person receiving the funds;
- 15 (3) The person transferring the funds knows, or should
16 know, that the person receiving the funds will use the
17 funds to make campaign related expenditures; or
- 18 (4) The person receiving the funds made a campaign-related
19 expenditure in the last election cycle or the current
20 cycle."

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



1 " ~~[+]~~§11-314~~[+]~~ **Duties of the commission.** The duties of
2 the commission under this part are to:

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



1 file or the filing of a substantially defective or
2 deficient report, and the defective or deficient
3 report shall be corrected and explained. All fines
4 collected under this section, as authorized by section
5 11-410, shall be deposited in the general fund of the
6 State;

7 (6) Hold public hearings;

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

10 (8) Adopt rules pursuant to chapter 91;

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

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

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

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



1 at its discretion, to dismiss persons employed by or
2 contracted with the commission;

3 (13) Conduct random audits and field investigations, as
4 necessary; and

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

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

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

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

15 (c) Every report filed by a person other than an
16 individual, candidate, candidate committee, or noncandidate
17 committee shall be certified as complete and accurate by the
18 chief executive officer, owner, board chairperson, or, if none,
19 the title of any other individual performing functions
20 corresponding to those performed by such individuals.

21 (d) Every report filed by a person shall be certified as
22 complete and accurate by that person.



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

3 ~~[(d)]~~ (f) 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; or

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

20 ~~[(e)]~~ (g) To be timely filed, a committee's reports shall
21 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)]~~ (h) All reports filed under this part are public
4 records."

5 SECTION 5. Section 11-335, Hawaii Revised Statutes, is
6 amended by amending subsections (a) and (b) to read as follows:

7 "(a) The authorized person in the case of a party, or the
8 treasurer in the case of a noncandidate committee that is not a
9 party, shall file preliminary, final, and supplemental reports
10 that disclose the following information:

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



1 (5) The surplus or deficit at the end of the reporting
2 period.

3 (b) Schedules filed with the reports shall include the
4 following additional information:

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

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

17 [~~+2~~] (3) All expenditures, including the name and address
18 of each payee and the amount, date, and purpose of
19 each expenditure~~[-]~~; provided that:

20 (A) Expenditures for consultants, advertising
21 agencies and similar firms, credit card payments,
22 salaries, and candidate reimbursements shall be



1 itemized to permit a reasonable person to
 2 determine the ultimate intended recipient of the
 3 expenditure and its purpose; and

4 (B) The purpose of an independent expenditure shall
 5 include the name of the candidate who is
 6 supported or opposed by the expenditure, and
 7 whether the independent expenditure supports or
 8 opposes the candidate;

9 (4) For noncandidate committees making independent
 10 expenditures only, certification that no expenditures
 11 have been coordinated with a candidate, candidate
 12 committee, or noncandidate committee, or any agent of
 13 a candidate, candidate committee, or noncandidate
 14 committee;

15 ~~[(3)]~~ (5) The amount, date of deposit, and description of
 16 other receipts and the name and address of the source
 17 of each of the other receipts;

18 ~~[(4)]~~ (6) A description of each durable asset, the date of
 19 acquisition, value at the time of acquisition, and the
 20 name and address of the vendor or contributor of the
 21 asset; and



1 ~~[(5)]~~ (7) The date of disposition of a durable asset, value
 2 at the time of disposition, method of disposition, and
 3 name and address of the person receiving the asset."

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

6 "~~[(1)]~~**§11-337**~~[(1)]~~ **Reporting expenditures.** (a) For purposes
 7 of this part, an expenditure is deemed to be made or incurred
 8 when the services are rendered or the product is delivered.
 9 Services rendered or products delivered for use during a
 10 reporting period are deemed delivered or rendered during the
 11 period or periods of use; provided that these expenditures shall
 12 be reasonably allocated between periods in accordance with the
 13 time the services or products are actually used.

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

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

19 "~~[(1)]~~**§11-338**~~[(1)]~~ **Late contributions; late expenditures;**
 20 **report.** (a) The candidate, authorized person in the case of a
 21 noncandidate committee that is a party, or treasurer in the case
 22 of a candidate committee or other noncandidate committee, that,



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

8 (b) The late contribution report shall include the
9 following information:

10 (1) Name, address, occupation, and employer of the
11 contributor;

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

15 (3) The amount of the contribution received;

16 (4) The amount of the contribution made;

17 [~~4~~] (5) The contributor's aggregate contributions to the
18 candidate, candidate committee, or noncandidate
19 committee; and

20 [~~5~~] (6) The purpose, if any, to which the contribution
21 will be applied[-], including for contributions to a
22 noncandidate committee, the name of any candidate or



1 issue to be supported or opposed and whether that
2 candidate or issue is to be supported or opposed.

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

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

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

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

18 (4) The purpose of each expenditure, including the name of
19 any candidate supported directly or indirectly by the
20 expenditure, and whether the expenditure was made to
21 support or oppose that candidate.



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 person, and
 4 the custodian of the books and accounts of the person
 5 making the [~~disbursement,~~
 6 ~~(2)~~] expenditure;

7 (2) If the expenditure was made by a person other than an
 8 individual, the names and titles of the executives or
 9 board of directors who authorized the expenditure;

10 (3) The state of incorporation and principal [~~place of~~
 11 ~~business~~] address of the person other than an
 12 individual or, for an individual, the name, address,
 13 occupation, and employer of the [~~person~~] individual
 14 making the [~~disbursement,~~] expenditure;

15 [~~(3)~~] (4) The amount of each [~~disbursement~~] expenditure
 16 during the period covered by the statement and the
 17 identification of the person to whom the disbursement
 18 was made;

19 [~~(4)~~] (5) The elections to which the electioneering
 20 communications pertain and the ballot issue or names [~~,~~
 21 ~~if known, of the~~] of any candidates [~~identified or to~~
 22 ~~be identified,~~] supported or opposed and whether the



1 communication supported or opposed those issues or
2 candidates;

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

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

15 ~~[(7)]~~ (8) Whether or not any electioneering communication is
16 made in coordination, cooperation, or concert with or
17 at the request or suggestion of any candidate,
18 candidate committee, or noncandidate committee, or
19 agent of any candidate if any, and if so, the
20 identification of the candidate, a candidate committee
21 or a noncandidate committee, or agent 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 or
12 other communication that is broadcast from a cable, satellite,
13 television, or radio broadcast station; published in any
14 periodical or newspaper; disseminated electronically or
15 automatically by telephone; or sent by mail at a bulk rate~~[7]~~;
16 or otherwise made visible to one thousand or more people, and
17 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.]~~ Can reasonably be interpreted as
4 supporting or opposing a candidate.

5 "Electioneering communication" shall not include
6 communications:

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

12 ~~[(2) That constitute expenditures by the disbursing~~
13 ~~organization;~~

14 ~~+(3)]~~ (2) In house bulletins; or

15 ~~[(4)]~~ (3) That constitute a candidate debate or forum, or
16 solely promote a debate or forum and are made by or on
17 behalf of the person sponsoring the debate or forum.

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



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

3 " ~~[+]§11-391[+]~~ **Advertisements.** (a) Any advertisement
4 that is broadcasted, televised, circulated, or published,
5 including disseminated electronically, or otherwise made visible
6 to one thousand or more people, shall contain:

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

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

11 (A) The advertisement [~~is published, broadcast,~~
12 ~~televised, or circulated with~~] has the approval
13 and authority of the candidate; provided that an
14 advertisement paid for by a candidate, candidate
15 committee, or ballot issue committee does not
16 need to include the notice; or

17 (B) The advertisement [~~is published, broadcast,~~
18 ~~televised, or circulated without the approval and~~
19 ~~authority of~~] has not been approved by the
20 candidate.

21 (b) If the advertisement is paid for by a person other
22 than a candidate or candidate committee, the advertisement shall



1 also contain an additional notice in a prominent location
2 immediately after or below the notices required under subsection
3 (a). This notice shall include the following words, as the case
4 may be:

5 (1) "The top donors for this advertisement are", to be
6 followed by the names of the contributors that have
7 made the five greatest aggregate contributions for the
8 purposes of the advertisement; or

9 (2) "The top donors for this entity are", to be followed
10 by the names of the contributors that have made the
11 five greatest aggregate contributions during the
12 election cycle.

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

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

19 ~~["§11-332] Filing report by corporations. (a) A~~
20 ~~corporation shall file a report with the commission for~~
21 ~~contributions from its own treasury that aggregate more than~~
22 ~~\$1,000 per two year election period made directly to a candidate~~



1 ~~or candidate committee; provided that this section shall not~~
2 ~~authorize contributions to a candidate or candidate committee~~
3 ~~where otherwise prohibited by this part. The reporting shall be~~
4 ~~made pursuant to the time requirements contained in section 11-~~
5 ~~336 and section 11-338.~~

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

10 SECTION 12. If any provision of this Act, or the
11 application thereof to any person or circumstance, is held
12 invalid, the invalidity does not affect other provisions or
13 applications of the Act that can be given effect without the
14 invalid provision or application, and to this end the provisions
15 of this Act are severable.

16 SECTION 13. This Act does not affect rights and duties
17 that matured, penalties that were incurred, and proceedings that
18 were begun before its effective date.

19 SECTION 14. In codifying the new sections added by section
20 2 of this Act, the revisor of statutes shall substitute
21 appropriate section numbers for the letters used in designating
22 the new sections in this Act.



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1 SECTION 15. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 16. This Act shall take effect upon its approval.

4

INTRODUCED BY: *B. Staker*

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Report Title:

Campaign Spending; Reporting

Description:

Repeals current reporting provisions for corporations. Establishes requirements for persons other than individuals, candidates, candidate committees, and noncandidate committees to register with the Campaign Spending Commission and file reports. Allows the Campaign Spending Commission to monitor and penalize persons for absent or deficient filings. Requires more detail in reporting for all persons, especially regarding contributions or expenditures for advertisements or electioneering communications.

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

