



Voter Owned Hawaii
3442 Waialae Ave, Ste #8
Honolulu, HI 96816
(808)-457-8622

TO: The Honorable Gilbert S.C. Keith-Agaran, Chair
House Committee on Judiciary

The Honorable Karl Rhoads, Vice Chair
House Committee on Judiciary

LATE TESTIMONY

Members of the House Committee on Judiciary

FROM: Kory Payne, Executive Director
Voter Owned Hawaii
1142 Waialae Ave, Suite 8
Honolulu, HI 96816

SUBJECT: Testimony on H.B. 2700, Relating to Campaign Spending

Thursday, February 2nd, 2012
2:00 p.m. Conference Room 325

Thank you for the opportunity to testify on this bil.

This late testimony is submitted in order to clarify changes needed to the current version of H.B. 2700.

We are proposing the following amendments to HB 2700.

First, we propose amending the language in Section 1 of HB 2700, which changes language in Section 7a of Act 244. We'd like to address the Campaign Spending Commission's concern that qualified publicly funded candidates would collect matching funds (four to one matching funds) without showing a need for those funds. This amendment would insert language stating a candidate must show they have less than \$2,000 in their account before they can go out and begin collecting matching fund small donor contributions as described in Section 1 of HB 2700.

Second, to address our concern that redistricting could significantly change the amounts of funds that are allotted to varying districts, we propose adding the following language to Section 6 of HB 2700, which would amend the language of Section 12 of Act 244. This language would be inserted as subpart "i". The intent of this language is to grant the Campaign Spending Commission authority to adjust the levels of the base allotments after redistricting.

"(i) The commission shall have the authority, as it deems necessary, to adjust the primary election and general election base amount for each county council district based on a proportional methodology the commission may adopt after redistricting."

Third, we propose implementing the suggestion by the Campaign Spending Commission to change the word “participating candidate” on page 1, line 5, and on page 2, line I, to “certified candidate.” A “participating candidate” as defined in section 2 of Act 244 has a different meaning from “certified candidate” also defined in section 2 of Act 244. The change would make it clear that a candidate has to be a certified comprehensive publicly funded candidate before seeking additional funding under this alternative funding mechanism. This change would also align with the language on page 2, line 14, that a qualified small dollar contribution means any contribution to a “comprehensive publicly funded candidate” who is a “certified candidate” and not a “participating candidate” who is defined as a “candidate who is seeking certification for comprehensive public funding.” See, Act 244, section 2.

Fourth, we propose addressing the concerns of the Campaign Spending Commission regarding the Commission payment of not later than two business days after the receipt of a report as suggested in Section 1 of this bill on page 1, lines 15-17. As proposed, this language conflicts with Act 244, section 12, subsection (t), as stated and noted in this bill on page 6, lines 18-21, which references Hawaii Revised Statutes (“HRS”) § 11-222 which was recodified in 2010 to HRS §11-431. HRS §11-431 provides that the Commission has twenty days to direct payment which is a more realistic and appropriate time frame for compliance. As drafted, two days is insufficient time to permit the Commission to: (1) verify with the Hawaii County Clerk’s office the names of the “individuals who are registered voters who reside in the district in which the participating candidate is seeking nomination or election at the time the contribution is given” (see page 1, lines 8-10, of the bill); and (2) work with the Comptroller’s office to procure the funds to make payments to the certified candidate. Although we can appreciate a certified candidate receiving matching payments not later than two business days, this is not possible or practicable when it comes to coordination of activities among separate agencies as well as current resources and a trust fund.

Fifth, we propose amending HB 2700 to adjust the reporting schedules stated on page 2, lines 4-9, which requires reports of qualified small dollar contributions to be filed: (1) “Once every week after the date that is sixty days prior to the primary election until the date that is twenty one days before the primary election” and (2) “Once every other day after the date that is twenty one days before the primary election until one day before the general election,” the Commission is concerned that this schedule would create a backlog of applications and not permit the Commission to process payments in an orderly and timely manner. Accordingly, we suggest what is presently allowed under the partial public funding program. Hawaii Administrative Rules (“HAR”) section 3-160-62(c) provides that “[a]pplications for funding shall not be submitted more frequently than every fourteen calendar days after the last filed application.”

Sixth, as stated by the Campaign Spending Commission, Section 4 of this bill proposes to add a deadline for when qualifying contributions can be collected, but it conflicts with the language in the definition of “qualifying period” on page 3, lines 3-4, of this bill. The proposed change provides that qualifying contributions cannot be collected “later than sixty days prior to the primary election,” but the current deadline as provided in Act 244, section 2, is the “deadline for filing candidate nomination papers.” These are two different dates. The Commission suggests that the proposed change in section 4 be deleted from the bill and the current deadline be used.

Seventh, the base allotments given to qualified candidates is based upon a formula. Qualified candidates receive the average amount spent by the winning candidate in their district over the

past two election cycles, minus 10%. In other words, to determine how much money a qualified candidate receives (as an initial base allotment), in either the primary or general election, we add the amounts spent by the winning candidate (in that district) in the past two elections; then take that total amount and divide by two to get the average. The qualified candidate gets 90% of whatever that number is.

This is a good way to ensure qualified candidates get a fair amount of money relative to the history of spending in that particular district.

Because county elections are non-partisan, however, it is often the case that a race is decided in the primary, meaning there is no precedent for a general election. If there is no precedent of a general election for a particular district, we need a way to determine an amount to be given to a qualified candidate in the event their race goes to a general election. To do that, we are proposing to add this language to Section 6 of H.B. 2700, which amends Section 12, subpart (d).

(d) For general elections subject to this part, the base amount of public funding shall be the average of the amount spent by the winning candidates in the previous two county council general elections for the same district, reduced by ten per cent[.]; provided that if a district did not have a general election in any of the two previous general elections, the base amount of public funding shall be the per district average of the Drevious seneral election for all districts that had a 19 seneral election.



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TO: The Honorable Gilbert S.C. Keith-Agaran, Chair
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Thank you for the opportunity to testify on this bill.

This late testimony is submitted in order to clarify changes needed to the current version of H.B. 2700.

Money in politics is the defining issue of our democracy and will continue to be so. All over the country, citizens and lawmakers are waking up to this reality. Between 2003-2005, oil companies spent over \$600,000 in lobbying and expenditures in Hawaii (this does not even count the lobbying money that is not required to be disclosed). It's not a wonder why we burn oil to get nearly 90% of our energy.

House bill 2700 provides upkeep and maintenance for Act 244, the Big Island Fair Elections pilot program. We are in support of HB 2700 and propose the following amendments:

First, we propose amending the language in Section 1 of HB 2700, which changes language in Section 7a of Act 244. We'd like to address the Campaign Spending Commission's concern that qualified publicly funded candidates would collect matching funds (four to one matching funds) without showing a need for those funds. This amendment would insert language stating a candidate must show they have less than \$2,000 in their account before they can go out and begin collecting matching fund small donor contributions as described in Section 1 of HB 2700.

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In the 2010 election cycle, eight candidates utilized the Big Island pilot program, and four of those candidates won. We spent \$147,000 plus administrative costs for a batting average of 50% on the Big Island. Now, four out of nine County Councilors are publicly funded and accepted no money from large special interests (outside of the \$5 qualifying contributions candidates collected from 200 registered voters who all lived in the district for which the candidates were running).

Between 2002 and 2010, 137 candidates utilized the partial public funding program, and 30 of those candidates won. To elect 30 candidates, taxpayers spent approximately \$3,756,000. Spending that much money for a batting average of under 22% is a waste of resources.

The bottom line is that when it comes to the partial public funding program, taxpayers are losing out. We need to upgrade and modernize the program to catch up with the times.

Testimony for HB2700 on 2/2/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, February 02, 2012 10:51 AM

To: JUDtestimony

Cc: nihipalim001@hawaii.rr.com

LATE TESTIMONY

Testimony for JUD 2/2/2012 2:00:00 PM HB2700

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Michele Nihipali
Organization: Individual
E-mail: nihipalim001@hawaii.rr.com
Submitted on: 2/2/2012

Comments:

Improvements for Publicly Funded Elections. A pilot program for publicly-funded "clean elections" was successfully launched in Hawaii County Council in 2010. Since that time, court decisions elsewhere have affected some aspects of similar programs, so we need an upgrade. HB2700 will replace the equalizing funds with a 4-to-1 public funding match for small donations, and make other improvements to the program.

Policy Ninja Testimony Update

CHUCKY WHEAT [chucky@hawaii.edu]

Sent: Thursday, February 02, 2012 10:48 AM

To: JUDtestimony

LATE TESTIMONY

From: CHUCKY WHEAT

95-1523 AINAMAKUA DR #93
MILILANI, HI, 96789

Date: Thursday, February 2, 2012

Please PASS HB 2700.

I was born on the Big Island and my dad still lives there. I'm proud that the BIG ISLAND knows we have to publicly fund candidates in order to help candidates who have the PUBLIC's best interest at heart.

House bill 2700 provides upkeep and maintenance for Act 244, the Big Island Fair Elections pilot program.Â PLEASS PASS IT.

Testimony for HB2700 on 2/2/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, February 02, 2012 9:32 AM

To: JUDtestimony

Cc: thorton323@aol.com

LATE TESTIMONY

Testimony for JUD 2/2/2012 2:00:00 PM HB2700

Conference room: 325
Testifier position: Support
Testifier will be present: No
Submitted by: Tom Horton
Organization: Individual
E-mail: thorton323@aol.com
Submitted on: 2/2/2012

Comments:

Please pass this important bill.

Testimony for HB2700 on 2/2/2012 2:00:00 PM

mailinglist@capitol.hawaii.gov [mailinglist@capitol.hawaii.gov]

Sent: Thursday, February 02, 2012 10:58 AM

To: JUDtestimony

Cc: anthuriumz@hotmail.com

LATE TESTIMONY

Testimony for JUD 2/2/2012 2:00:00 PM HB2700

Conference room: 325
Testifier position: Support
Testifier will be present: Yes
Submitted by: Wynnie Hee
Organization: Individual
E-mail: anthuriumz@hotmail.com
Submitted on: 2/2/2012

Comments:

Please PASS HB 2700 to help Big Island's pilot program for publicly-funded elections. Since it began in 2010, changes in the courts require the changes they are asking for.

My big HOPE and PRAYER is that the Big Isle's pilot program works and WE TOO in the rest of the State of Hawaii can also have publicly funded elections. I don't believe freely spending money to influence elections should be considered "free speech," but until the Supreme Court's Citizens United vs FEC ruling is amended, the fact is money TALKS and we, the PUBLIC, need to have money talk for US TOO. PASS HB 2700.

Policy Ninja Testimony Update

Adam Bensley [abensley80@yahoo.com]

LATE TESTIMONY

Sent: Thursday, February 02, 2012 11:45 AM

To: JUDtestimony

From: Adam Bensley

2393 Waiomao Road
Honolulu, Hawaii, 96816

Date: Thursday, February 2, 2012

I'm writing in strong support for HB 2700.

In the 2010 election cycle, eight candidates utilized the Big Island pilot program, and four of those candidates won. We spent \$147,000 plus administrative costs for a batting average of 50% on the Big Island. Now, four out of nine County Councilors are publicly funded and accepted no money from large special interests (outside of the \$5 qualifying contributions candidates collected from 200 registered voters who all lived in the district for which the candidates were running).

Between 2002 and 2010, 137 candidates utilized the partial public funding program, and 30 of those candidates won. To elect 30 candidates, taxpayers spent approximately \$3,756,000. Spending that much money for a batting average of under 22% is a waste of resources.

The bottom line is that when it comes to the partial public funding program, taxpayers are losing out. We need to upgrade and modernize the program to catch up with the times.

Money in politics is the defining issue of our democracy and will continue to be so. All over the country, citizens and lawmakers are waking up to this reality. Between 2003-2005, oil companies spent over \$600,000 in lobbying and expenditures in Hawaii (this does not even count the lobbying money that is not required to be disclosed). It's not a wonder why we burn oil to get nearly 90% of our energy.

House bill 2700 provides upkeep and maintenance for Act 244, the Big Island Fair Elections pilot program.

Please pass this legislation. Mahalo

LATE TESTIMONY

NOTE: This testimony was submitted online in the "comments" box on February 1, 2012 (not uploaded as is now being done). It is being re-submitted because it appears that the earlier attempt may not have been successful.

February 1, 2012

Re: HB 2700, Relating to Campaign Spending.

Committee on Judiciary Hearing: February 2, 2012, 2:00 PM, Conference Room 325

Dear Chair Keith-Agaran, Vice-Chair Rhoads, and Judiciary Committee members:

Thank you for the opportunity to submit testimony regarding HB 2700.

I strongly **support** this bill.

The amendments proposed in HB 2700 will help to ensure that the Big Island public funding pilot remains viable and relevant. We should nurture this public funding option.

Besides the obvious reasoning for public funding of elections, based on the integrity of our democratic process, there are also economic reasons to support a public funding option. The uneven planning that often results from short-term special interest--as distinguished from long-term public interest--decision-making is unnecessary and is not in the public interest.

Public awareness of and concern about the influence of special interest money upon their democracy continues to grow. A functional public funding option is important to maintain public trust in our democratic form of government--now more than ever, under the shadow³ of the Supreme Court decision in *Citizens United v. FEC*, 130 S.Ct. 876 (2010).

Please pass this critical HB 2700.

Sincerely,

R. Elton Johnson, III