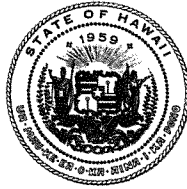


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STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
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February 27, 2012

TO: The Honorable David Y. Ige, Chair
Senate Committee on Ways and Means

The Honorable Michelle N. Kidani, Vice Chair
Senate Committee on Ways and Means

Members of the Senate Committee on Ways and Means

FROM: Kristin Izumi-Nitao, Executive Director *KIN*
Campaign Spending Commission

SUBJECT: **Comments on S.B. No. 2493, S.D. 1, Relating to Campaign Spending**

Tuesday, February 28, 2012
9:00 a.m., Conference Room 211

Thank you for the opportunity to provide comments on this bill. The Campaign Spending Commission ("Commission") strongly supports this bill and urges the Committee to pass the bill.

Section 1 of the bill amends Hawaii Revised Statutes ("HRS") §11-301 (definitions), by adding a definition of "matching payment period." In that same section, the definition of "qualifying contribution" includes a reference to a matching payment period during which a candidate seeking public funding may receive qualifying contributions of \$100 or less. The definition of "matching payment period" was included in a prior law (HRS §11-191 (2009 Replacement)). Adding the definition of "matching payment period" back to the statute would allow Commission staff to better implement the partial public financing program.

Section 2 of the bill makes "housekeeping" amendments to HRS §11-314 (duties of the Commission). For example, the bill replaces "duplicating" with "duplication" in subsection 4. The bill does not enlarge or curtail the duties of the Commission in any manner.

Section 3 of the bill amends HRS §11-334(a)(1)(A) (time to file preliminary, final, and supplemental reports) by changing the due date of the 1st Preliminary Primary Report from "July 31 of the election year" to "thirty calendar days prior to a primary

election.” Act 126, Sess. Laws Haw. (2010), advanced the date of the primary election from the last Saturday in September to the second Saturday in August. Thus, if the due date for the 1st Preliminary Primary Report is not also advanced, in this election year, candidates will have back-to-back reporting deadlines of July 31st and August 1st to file the 1st Preliminary Primary Report and the 2nd Preliminary Primary Report, respectively.

Section 3 of the bill also amends HRS §11-334(a)(4), to more clearly align the law with present practice. Presently, every candidate files the Supplemental Report that is due on January 31st every year and not just on January 31st of an election year. This bill would delete “after an election year” from the statutory provision. **This bill does not require an additional or new report.** That is, every sitting senator and member of the House of Representatives, and every other elected state and county official (along with all other candidate committees registered with the Commission) filed the Supplemental Report that was due on January 31, 2012. This bill would simply align the law with present practice by deleting “after an election year” from the statutory provision and provide that the Supplemental Report is due on “January 31 of each year.” If this amendment is not passed, the Commission may not be able to require the filing of the January Supplemental Report in an election year leaving a one-year gap (July 1st of a nonelection year to June 30th of an election year) in reporting by candidate committees.¹

Section 4 of the bill amends HRS §11-335 (noncandidate committee reports) by separating the reporting of contributions into contributions received and contributions made by noncandidate committees, and requiring noncandidate committees to identify the candidate supported or opposed by the committees’ independent expenditures. This will align the statute with the reality that noncandidate committees both make and receive contributions and report them, and to promote transparency of spending on independent expenditures.

Finally, Section 5 of the bill amends subsection (d) by adding “prosecuting attorney” to paragraph (4). Thus, the prosecuting attorney, along with state senators, state representatives, and county council members participating in the partial public financing program would be able to spend \$1.40 multiplied by the number of registered voters in the voting district. This amendment reinstates language deleted by Act 203, Sess. Laws Haw. (2005). This deletion forced the Commission to place the prosecuting attorney in the “all other offices” category of spending limit, *i.e.*, 20 cents multiplied by

¹ We note that S.B. No. 2508 is a bill that originally contained only what is section 3 of this bill. The Commission sought to fast track Section 3 of this bill to ensure that candidate and noncandidate committees would not have to file back-to-back reports this summer. However, in the mistaken belief that the proposed amendment to HRS §11-334(a)(4) created a new report for committees to file, the Senate Committee on Judiciary and Labor deleted this amendment from S.B. 2508 in its S.D. 2. The Commission of course strongly supports this bill with the proposed amendment to HRS §11-334(a)(4) and urges the Senate Committee on Ways and Means to pass S.B. No. 2493, S.D. 1.

the number of registered voters in the voting district. This seems unreasonable given the fact that the prosecuting attorney is a county-wide office. For example, under current law, the expenditure limit for the Honolulu Prosecuting Attorney for the 2012 elections is \$81,560 while the expenditure limit for the Honolulu Mayor is \$815,602. The expenditure limit for the Hawaii County Prosecuting Attorney for the 2012 elections is \$17,978 while the expenditure limit for the Hawaii County Mayor is \$179,776. Finally, the expenditure limit for the Kauai County Prosecuting Attorney for the 2012 elections is \$7,167 while the expenditure limit for the Kauai County Mayor is \$71,672.

Section 5 of S.B. No. 2493, as originally introduced, also proposed an amendment to HRS §11-423 (voluntary expenditure limits; filing affidavit) by amending subsection (b) to require candidates to file the affidavit to abide by statutory expenditure limits no later than the time to file nomination papers. This timeline is contained in HRS §12-6(e)² and was provided for in the prior campaign spending law (HRS §11-208(c) (2009 Replacement)). This would allow Commission staff to better implement the partial public financing program and **achieve compliance with state election laws**. The Senate Committee on Judiciary and Labor deleted this amendment in S.D. 1. We ask that this amendment to HRS §11-423(b) be reinstated in the bill.

This bill has a companion bill in the House of Representatives, H.B. No. 1756. That companion bill was passed, with amendments, by the House Committee on Judiciary on January 24, 2012. H.B. No. 1756, H.D. 1, was heard by the House Committee on Finance on February 24, 2012. That committee passed the bill as amended.

² HRS §12-6(e) provides, “Upon the showing of a certified copy of an affidavit which has been filed with the campaign spending commission pursuant to section 11-208 by a candidate who has voluntarily agreed to abide by spending limits, the chief election officer or clerk shall discount the filing fee of the candidate by the following amounts: (1) For the office of the governor and lieutenant governor -- \$675; (2) For the office of mayor -- \$450; and (3) For all other offices -- \$225.”