



LEAGUE OF
WOMEN VOTERS®

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COMMITTEE on JUDICIARY & LABOR
Senator Clayton Hee, Chair
Senator Maile S. L. Shimabukuro, Vice-Chair
Tuesday, March 19, 2013; 10:05 AM, conference room 016

TESTIMONY in SUPPORT of **HB 1147 HD2** Relating to Campaign Spending
Wynnie Hee, Legislative Committee Member, League of Women Voters of Hawaii

Chair Hee, Vice-Chair Shimabukuro, and Members Gabbard, Ihara, and Slom:

The League of Women Voters of Hawaii supports HB 1147 HD2, which would **increase transparency in campaign spending** by requiring noncandidate committees – PACs and Super PACs -- to identify certain top contributors, directly or indirectly, to advertisements.

In today's unlimited campaign spending environment, in order for citizens to "follow the money," we need to require noncandidate committees that are making only independent expenditures to name their top donors – either to their advertisement, if known, or to the non-candidate committee itself. For example, if a noncandidate committee has many contributors but none have contributed specifically for the advertisement, then the "top contributors to the noncandidate committee itself" need to be named in the ad.

According to OpenSecrets.org, at least **\$6 billion was spent nationwide** in the 2012 election cycle. Need we remind you that even locally, all told, an unprecedented **\$4 million** was spent by the candidates and a Super PAC **on a single race** –the City and County of Honolulu mayoral race? This Super PAC outspent the candidate targeted by its negative ads by over ten to one, over \$3 million compared to the \$300,000 spent by the targeted candidate.

Please help to renew the public's confidence in our election process and in our public officials. More disclosure is urgently needed. Let us see who is behind the enormous amounts of money spent to influence the outcome our elections.

The League of Women Voters of Hawaii believes that this is an important, much needed bill. We urge you to pass HB1147 HD2.

Thank you for this opportunity to submit testimony.



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Senate Judiciary and Labor Committee
Chair Clayton Hee, Vice Chair Maile Shimabukuro

Tuesday 03/19/2013 at 10:05AM in Room 016
HB1147 HD2– Relating to Campaign Spending

TESTIMONY

Carmille Lim, Executive Director, Common Cause Hawaii

Dear Chair Hee, Vice Chair Shimabukuro, and members of the Senate Judiciary and Labor Committee:

Common Cause Hawaii supports HB1147 HD2, which encourages transparency for PACs and SuperPACs.

HB1147 HD2 includes a number of important elements to improve transparency and disclosure for campaign finance, with particular respect to independent expenditures and SuperPACs. Specifically, this bill requires noncandidate committees to identify certain top contributors for advertisements.

Transparency for independent expenditures is a particularly timely issue, as *Citizens United v. FEC* and other court decisions paved the way for unlimited spending by corporations and unions to influence elections. New Super PACs and other entities are popping up at the federal and state levels to take advantage of these new pathways for campaign money.

The public's understanding of this issue has grown over the past three years, and the concern about campaign finance is becoming more widespread. This is even leading to a growing movement nationwide for a U.S. Constitutional Amendment to overturn *Citizens United* and rein in campaign spending by corporations.

The experience of the most recent elections shows the clear need for action by elected officials; 2012 was the year of the SuperPAC at the federal, state, and local levels. Here in Hawaii, new SuperPACs were formed and enormous quantities were expended on campaign advertising aiming to influence the voters.

In this context, other states are beefing up their disclosure requirements, and Hawaii is falling behind. Maryland, Rhode Island, and Connecticut already have similar legislation in place. According to the National Institute on Money in State Politics, Hawaii has ranked in the bottom half of the nation with respect to disclosure for independent expenditures. With the recent growth of SuperPACs and independent expenditures, more disclosure is urgently needed. This bill includes important elements to improve this situation.



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IMPORTANT ELEMENTS IN HB1147 HD2

There are several important elements included in the bill:

- **Disclosures on Advertisements** – Advertisements are currently required to include a message disclosing who has paid for the ad, but the names of SuperPACs may not give any real information to the viewers, listeners, or readers. This bill improves the disclosures on advertisements by requiring a listing of a SuperPAC’s three top contributors. Similar provisions have been included in various pending legislation in other states.
- **Noncandidate Committee Reporting** – This bill requires noncandidate committees to report additional information including the name of any candidate supported, opposed, or identified in any advertisements. Also, for independent-expenditure-only committees (“SuperPACs”), the bill requires certification that independent expenditures are not coordinated with the candidate.
- **Late Expenditures** – The current law already requires reporting of *late contributions* – donations given just before an election. Now that independent expenditures are gaining prominence, this bill would require noncandidate committees and other entities to report *late expenditures* as well.
- **Electioneering Communications** – This bill requires more details to be reported in electioneering communication reports, and directs the Campaign Spending Commission to create rules to require all persons to file electioneering communication reports (currently, noncandidate committees are not required to file these reports).

To further strengthen this bill, we would like to improve language to Section 2; we would like to rework the language of the names of contributors on ads to include three names of either: the top contributors for the ad, the top contributors to the entity placing the ad, or a combination of the two.

While we may not be able to completely eliminate the influence of “big money” in politics, we believe that improving the way campaign contributions and expenditures are reported, will help voters identify the source of campaign money.

Thank you for the opportunity to testify in support of HB1147 HD2, with suggested amendments.



AMERICANS FOR DEMOCRATIC ACTION

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March 17, 2013

TO: Chair Clayton Hee, Vice Chair Maile Shimabukuro
Members of the Senate Committee on Judiciary and Labor

FROM: Barbara Polk, Legislative Chair
Americans for Democratic Action/ Hawaii

SUBJECT: SUPPORT FOR HB 1147 RELATING TO CAMPAIGN SPENDING

Thank you for this opportunity to testify on this important bill. Americans for Democratic Action/Hawaii is in strong support of HB 1147. The changes in our political culture brought about by the US Supreme Court's decision in the Citizens United vs. the Federal Election Commission, as well as other court decisions, have resulted in an increasing influx of money into local political campaigns, especially by "SuperPACs", which can now collect and expend unlimited funds to influence an election, provided that they do not coordinate their efforts with a candidate for office. In Hawaii, as elsewhere, SuperPACs have accumulated significant funds from a single source or from very few sources. The existing disclosure requirements in campaign advertising are insufficient to identify the true source of the funds in the advertisement as it reaches the public.

Hawaii needs to modify its campaign spending laws to take into account this new development in order to give the public access to who is influencing elections. HB 1174 would increase reporting of campaign contributions and expenditures, to allow voters to be able to determine the source of campaign messages they receive.

The primary change that would reach the general public is the requirement that political advertisements include the names of top contributors so that the public will know who is responsible for the ads. At present, only the name of the organization sponsoring the ad is required—a name that can be meaningless or misleading. Section 2 defines "top contributors" as those who have made the 3 largest contributions over \$10,000 for the purpose of the advertisement or to the non-candidate committee running the ad.

We note that the wording of this section has been modified in the HD1 such that under certain circumstances, the non-candidate committee placing the ad may have to list only one donor. The intent was to list three top donors—first those who funded the ad itself, but if there were not three donors for the ad, then additional top donors to the committee would be listed, up to a total of three. We understand that the AG's office is working of specific wording for this section, and

we support a change that would implement the listing of three top donors in all cases, except when there are no donors who have given \$10,000 or more.

HB 1147 improves campaign spending law in several other ways:

It requires that all campaign spending reports be complete and accurate and be so certified by the chairperson and treasurer.

It requires that non-candidate committee reports and late expenditure reports include both contributions received and contributions made (e.g., to a candidate or other non-candidate committee). This information would allow the tracing of how money flows from one committee to another to influence elections.

It requires that reports of expenditures for advertisements or electioneering communications and any expenditure by a non-candidate committee making only independent expenditures include the names of candidates supported, opposed, or identified. This change is important because a person researching expenditures may not have seen the ad or know what the aim of the organization is.

It amends late expenditure report requirements to include contributions or independent expenditures to be rendered during the last three days prior to an election. At present, an expenditure is reported when it is rendered. However, the last three days before an election are an important period for electioneering activity. Therefore, it better serves the public to include services paid for prior to the last three days, but to be rendered during that period.

It requires that electioneering information reports include the names and titles of the executives or board of directors who authorized the expenditure, if it was made by a non-candidate committee, business entity, or an organization.

We see no problem with the deletion of Section 11-332 Filing Report by Corporations. It does not eliminate corporate reporting, since corporations are required to file and meet all requirements as non-candidate committees if they make political contributions or fund electioneering communications.

A very similar bill to HB 1147 successfully cleared all committees and readings in both houses last year, but failed to get Finance clearance at the last minute. A concern that came up late in the session was that creating a searchable on-line database would need additional funds. However, with outside help, the Campaign Spending Commission has already created that data base, so additional funding is not needed to implement this bill. It is important to pass the bill this year, because by next year, we will already be into the 2014 election cycle and it could not take effect until the 2016 elections.

For these reasons, we strongly encourage you to pass HB 11147 with the amendment suggested.



Democracy Under the Rule of Law is Based on Public Access

March 18, 2013

Senate Committee on Judiciary & Labor
Hawai'i State Legislature

Re: H.B. 1147, HD 2, Relating to Campaign Spending
Hearing on Tuesday, 03/19/13 at 10:05 AM, Rm. 16

Dear Chair Hee, Vice-Chair Shimabukuro, and Committee members:

Thank you for hearing H.B. 1147, and thank you for the opportunity to testify. We strongly **support** this measure.

Transparency regarding money in politics has always been important, but it is especially important given the significant deregulation of campaign spending undertaken by the U.S. Supreme Court during the past seven years. The decisions in *Randall v. Sorrell*, 548 U.S. 230 (2006), *Davis v. FEC*, 128 S. Ct. 2759 (2008), *Citizens United v. FEC*, 130 S. Ct. 879 (2010), and *American Tradition Partnership v. Bullock*, 567, U.S. ____ (2012) have tattered common-sense restrictions on spending. For this reason all states, including Hawai'i, need to make sure that their disclosure laws are adequate to current elections practice.

Even in *Citizens United*, the Court affirmed the value of disclosure laws, to fully inform the electorate about who is "speaking" and thus avoid confusion. And the constitutionality of state disclosure laws has repeatedly been upheld by the U.S. Supreme Court (*viz. Doe v. Reed*, 130 S. Ct. 2811(2010); *Caperton v. A. T. Massey Coal Co.*, 129 S.Ct. 2252 (2009).).

H.B. 1147 will help to make it possible for Hawai'i voters to identify any entities (whether traditional or not) that are spending money to influence elections through independent expenditures or electioneering communications. This is of critical importance for an informed electorate, of course, and is thus an important way to protect the integrity of the democratic process.

Please pass H.B. 1147.

Sincerely,

R. Elton Johnson, III
Open Law Alliance

hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 16, 2013 11:49 AM
To: JDLTestimony
Cc: kat.caphi@gmail.com
Subject: Submitted testimony for HB1147 on Mar 19, 2013 10:05AM

HB1147

Submitted on: 3/16/2013

Testimony for JDL on Mar 19, 2013 10:05AM in Conference Room 16

Submitted By	Organization	Testifier Position	Present at Hearing
Kat Brady	Community Alliance on Prisons	Support	No

Comments: Please support this important bill that promotes equality and democracy. As this recent economic report recommends: **STACKED DECK** How the Dominance of Politics by the Affluent & Business Undermines Economic Mobility in America
<http://www.demos.org/sites/default/files/publications/Demos-Stacked-Deck.pdf> by: David Callahan & J. Mijin Cha Require greater transparency around political spending. Congress should close existing loopholes in disclosure laws so that all money spent to influence U.S. elections (above a reasonable threshold) can be traced back to its original source. Allowing citizens to "follow the money" would help voters make informed choices and prevent wealthy interests from sponsoring nasty or misleading adds while insulated from public accountability. Mahalo for this opportunity to testify!

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hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 17, 2013 10:44 AM
To: JDLTestimony
Cc: henry.lifeoftheland@gmail.com
Subject: *Submitted testimony for HB1147 on Mar 19, 2013 10:05AM*

HB1147

Submitted on: 3/17/2013

Testimony for JDL on Mar 19, 2013 10:05AM in Conference Room 16

Submitted By	Organization	Testifier Position	Present at Hearing
Henry Curtis	Life of the Land	Support	No

Comments:

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hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 17, 2013 7:04 PM
To: JDLTestimony
Cc: meacham.hawaii@gmail.com
Subject: Submitted testimony for HB1147 on Mar 19, 2013 10:05AM

HB1147

Submitted on: 3/17/2013

Testimony for JDL on Mar 19, 2013 10:05AM in Conference Room 16

Submitted By	Organization	Testifier Position	Present at Hearing
Larry Meacham	Individual	Support	No

Comments: March 17, 2013 Testimony to the House Judiciary Committee in SUPPORT of HB 1147 Thank you for the opportunity to offer testimony. With the rise of big-money SuperPACs since the 2010 Citizens United decision, the public is deluged with ads without knowing who paid for them. This bill would increase disclosure requirements for so-called independent campaign committees, so that voters would know who are the biggest contributors behind the spending, and thus be able to judge the ads' credibility. It will also allow the media and voters to find out why the special interests are paying for ads and provide some defense against outside money intruding into local races. This greater transparency will hopefully discourage some of the worst anonymous negative ads that alienate voters and make everyone cynical about our political system. Thank you for the opportunity to offer testimony. Larry Meacham 306B Lehua St. Wahiawa, HI 96786

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TESTIMONY

To: Senate JDL Committee
Chair Clayton Hee, Vice Chair Maile Shimabukuro
Hearing: Tuesday, March 19, 2013 at 10:05 AM in Room 016
Bill: HB 1147 HD 2 – Campaign Spending
From: Nikki Love, CFRnikki@gmail.com, 286-2285

Aloha Chair Hee, Vice Chair Shimabukuro, and Committee Members,

Thank you very much for hearing this important bill. I am testifying in **support of HB 1147 HD 2** and would like to suggest amendments.

This measure aims to improve our campaign finance disclosure laws and ensure transparency for SuperPACs and independent expenditures. In the aftermath of the U.S. Supreme Court decision in *Citizens United v. FEC* and other court decisions, the floodgates have been opened to unlimited spending by corporations and unions. As a result, in 2012 we saw large sums of campaign money flowing via independent expenditures and SuperPACs.

The enormous problems for our democracy resulting from *Citizens United v. FEC* will be difficult to address quickly. National efforts are underway to push for major changes at the federal level, but in the meantime, this bill represents a meaningful and practical step for the Hawaii legislature to significantly improve disclosure at the state level and boost transparency in the post-*Citizens United* era. This measure improves reporting for noncandidate committees (PACs and SuperPACs) and electioneering communications, and requires disclosure of top contributors in advertisements by SuperPACs.

Please note that a similar bill moved through the legislature last year (HB2174) and ultimately stalled in Conference Committee. Since that time, this bill has been further revised and improved.

SUGGESTED AMENDMENTS

I would like to ask the JDL Committee to consider amending Section 2 of the HD1. This section aims to require SuperPACs to disclose their top contributors in any advertisements they run. In the ads, SuperPACs would need to disclose their top three contributors who donated (a) \$10,000 or more for the purposes of the advertisement, or (b) \$10,000 or more to the SuperPAC generally (during the prior twelve months).

However, as written in the HD1, the language does not seem to be thorough enough to cover the following scenarios:

continued on next page...

1. The language does not seem to require disclosure in a situation where there are 0 (zero) top contributors for the purpose of the advertisement and only 1 or 2 top contributors to the SuperPAC generally. The language seems to be silent regarding this scenario.
2. The language seems to allow for the following situation: If a SuperPAC discloses just one top contributor who donated for the purpose of the advertisement, then the SuperPAC would not need to disclose other contributors who gave to the SuperPAC generally (even if they are bigger contributors). For example: Let's say a SuperPAC has two big contributors – one contributor who donated \$10,000 for the purpose of the advertisement, and one other contributor who donated \$250,000 to the SuperPAC generally. As written in the HD1, it seems that the SuperPAC would be required to disclose the smaller \$10,000 contributor, but not the \$250,000 contributor.

More clarity in the language is needed to address these issues and ensure thorough disclosure of the top contributors.

Thank you very much for your attention. Please pass this bill forward and take the first step toward fixing our democracy after *Citizens United v. FEC*.

Mahalo,
Nikki Love

Resident of Kapahulu/Diamond Head
Email: CFRnikki@gmail.com
Phone: 286-2285

hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Friday, March 15, 2013 3:25 PM
To: JDLTestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for HB1147 on Mar 19, 2013 10:05AM*

HB1147

Submitted on: 3/15/2013

Testimony for JDL on Mar 19, 2013 10:05AM in Conference Room 16

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Oppose	No

Comments:

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hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Sunday, March 17, 2013 9:51 AM
To: JDLTestimony
Cc: ndavlantes@aol.com
Subject: Submitted testimony for HB1147 on Mar 19, 2013 10:05AM

HB1147

Submitted on: 3/17/2013

Testimony for JDL on Mar 19, 2013 10:05AM in Conference Room 16

Submitted By	Organization	Testifier Position	Present at Hearing
Nancy Davlantes	Individual	Support	No

Comments: Now that we've seen what can happen post-Citizens United, Hawaii must do all it can to improve the way campaign contributions and expenditures are reported to help renew the public's confidence in our elections process, and public officials. I urge you to pass HB1147 HD2. Thank you for the opportunity to testify.

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To: JDLTestimony
Cc: jeannine@hawaii.rr.com
Subject: Submitted testimony for HB1147 on Mar 19, 2013 10:05AM

HB1147

Submitted on: 3/16/2013

Testimony for JDL on Mar 19, 2013 10:05AM in Conference Room 16

Submitted By	Organization	Testifier Position	Present at Hearing
Jeannine Johnson	Individual	Support	No

Comments: I support HB1147 HD2 and legislation that promotes fairness and would bring respectability back to politics in our Islands. The Supreme Court's decision gave organizations the same free-speech rights as individuals and opened a floodgate of corporate and union spending to influence U.S. elections. Pacific Resource Partnership's extreme spending in Hawai'i's 2012 elections was made possible by the U.S. Supreme Court's Citizens United decision, which allowed labor unions and corporations to spend virtually unlimited amounts to sway an election without fully revealing the source of their funding. Few organizations in Hawai'i politics can match PRP's financial resources. HB1147 HD2 is a step in the right direction. Mahalo.

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hee2 - Kathleen

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 16, 2013 8:52 AM
To: JDLTestimony
Cc: joseph.heaukulani@gmail.com
Subject: *Submitted testimony for HB1147 on Mar 19, 2013 10:05AM*

HB1147

Submitted on: 3/16/2013

Testimony for JDL on Mar 19, 2013 10:05AM in Conference Room 16

Submitted By	Organization	Testifier Position	Present at Hearing
Joseph Heaukulani	Individual	Support	No

Comments:

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