

JAN 22 2016

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# 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 every year Hawaii  
2 taxpayers are given the option to contribute \$3 to the Hawaii  
3 election campaign fund, the public funding program administered  
4 by the Hawaii campaign spending commission, by means of a check  
5 box on their state income tax returns.

6           The legislature further finds that there has been a  
7 dramatic decline in the number of taxpayers selecting "yes" to  
8 make the \$3 contribution. The decline in revenue to the Hawaii  
9 election campaign fund may be due, in part, to a  
10 misunderstanding of the purpose and nature of the fund.

11           The purpose of this Act is to change the current name of  
12 the fund from the "Hawaii election campaign fund" to the "Hawaii  
13 citizens' election fund" to promote public awareness and  
14 understanding of the fund, and thereby increase revenues derived  
15 from contributions made by means of the state income tax return.

16           SECTION 2. Section 11-327, Hawaii Revised Statutes, is  
17 amended by amending subsection (c) to read as follows:



1           "(c) A ballot issue committee shall return all surplus  
2 funds to the contributors or donate funds to a community  
3 service, educational, youth, recreational, charitable,  
4 scientific, or literary organization within ninety days after  
5 the election for which the issue appeared on the ballot.  
6 Surplus funds that are not returned or donated within ninety  
7 days after the election for which the issue appeared on the  
8 ballot shall escheat to the Hawaii citizens' election [~~campaign~~]  
9 fund."

10           SECTION 3. Section 11-352, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12           "(b) All contributions made in the name of a person other  
13 than the owner of the money, property, or service shall escheat  
14 to the Hawaii citizens' election [~~campaign~~] fund."

15           SECTION 4. Section 11-353, Hawaii Revised Statutes, is  
16 amended by amending subsection (c) to read as follows:

17           "(c) An anonymous contribution shall not be used or  
18 expended by the candidate, candidate committee, or noncandidate  
19 committee, but shall be returned to the contributor. If the  
20 contributor cannot be identified, the contribution shall escheat  
21 to the Hawaii citizens' election [~~campaign~~] fund."



1 SECTION 5. Section 11-364, Hawaii Revised Statutes, is  
2 amended by amending subsection (a) to read as follows:

3 "(a) Any candidate, candidate committee, or noncandidate  
4 committee that receives in the aggregate more than the  
5 applicable contribution limit in section 11-357, 11-358, 11-359,  
6 or 11-360 shall return any excess contribution to the  
7 contributor within thirty days of receipt of the excess  
8 contribution. Any excess contribution not returned to the  
9 contributor within thirty days shall escheat to the Hawaii  
10 citizens' election [~~campaign~~] fund."

11 SECTION 6. Section 11-384, Hawaii Revised Statutes, is  
12 amended by amending subsections (a) through (d) to read as  
13 follows:

14 "(a) The candidate committee and candidate who receives  
15 contributions for an election but fails to file nomination  
16 papers for that election shall return residual funds to the  
17 contributors no later than ninety days after the date on which  
18 nominations for that election shall be filed. Funds not  
19 returned to contributors shall escheat to the Hawaii citizens'  
20 election [~~campaign~~] fund.



1           (b) The candidate committee and candidate who withdraws or  
2 ceases to be a candidate for the election because of death,  
3 disqualification, or other reasons shall return residual funds  
4 to the contributors no later than ninety days after the  
5 candidate ceases to be a candidate. Funds not returned to  
6 contributors shall escheat to the Hawaii citizens' election  
7 [~~campaign~~] fund.

8           (c) A candidate who is elected to office, including a  
9 candidate subject to term limits and a candidate who resigned  
10 before the end of the term of office and the candidate committee  
11 of such a candidate, may use campaign funds as provided in  
12 section 11-381 or return funds to contributors until four years  
13 from the date of the election for which the campaign funds were  
14 received. Funds that are not used or returned to contributors  
15 shall escheat to the Hawaii citizens' election [~~campaign~~] fund.

16           (d) A candidate who loses an election and the candidate  
17 committee of such a candidate may use campaign funds as provided  
18 in section 11-381 or return funds to contributors until one year  
19 from the date of the election for which the campaign funds were  
20 received. Funds that are not used or returned to contributors  
21 shall escheat to the Hawaii citizens' election [~~campaign~~] fund."



1 SECTION 7. Section 11-421, Hawaii Revised Statutes, is  
2 amended by amending the title and subsection (a) to read as  
3 follows:

4 "[+]§11-421[+] Hawaii citizens' election [~~campaign~~] fund;  
5 creation. (a) The Hawaii citizens' election [~~campaign~~] fund is  
6 created as a trust fund within the state treasury."

7 SECTION 8. Section 11-422, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "[+]§11-422[+] Depletion of fund. (a) The commission  
10 shall be under no obligation to provide moneys to candidates if,  
11 in the partial public funding program or comprehensive public  
12 funding for elections to the county of Hawaii council, moneys in  
13 the Hawaii citizens' election [~~campaign~~] fund are near  
14 depletion.

15 (b) For the purpose of the partial funding program, if the  
16 Hawaii citizens' election [~~campaign~~] fund is close to depletion  
17 as determined by the commission, the commission shall determine  
18 the amounts available to eligible candidates based on their  
19 order of eligibility in qualifying for partial public funds, as  
20 determined by the date of filing of an application for public



1 funds with the commission pursuant to section 11-428; provided  
2 that the application has been accepted by the commission.

3 (c) For the purpose of the comprehensive public funding  
4 for elections to the county councils, if the Hawaii citizens'  
5 ~~[+]election[+]campaign~~ fund is close to depletion, the  
6 commission shall determine whether the program shall be  
7 operative in accordance with this part."

8 SECTION 9. Section 11-433, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "[+]§11-433[+] Post-election report required. The  
11 treasurer shall electronically submit an expenditure of public  
12 funds report to the commission no later than twenty days after a  
13 primary election and no later than thirty days after a general  
14 election certifying that all public funds paid to the candidate  
15 have been used as required by this part.

16 Should the commission determine that any portion of the  
17 public funds have been used for noncampaign or other improper  
18 expenses, it shall report such finding to the attorney general  
19 and shall order the candidate to return all or part of the funds  
20 paid to that candidate for a primary or general election. When



1 public funds are returned, the funds shall be deposited into the  
2 Hawaii citizens' election [~~campaign~~] fund."

3 SECTION 10. Section 11-434, Hawaii Revised Statutes, is  
4 amended by amending subsections (c) and (d) to read as follows:

5 "(c) If the commission determines that any payment of  
6 public funds to a candidate exceeded the aggregate amount to  
7 which the candidate was entitled, the commission shall notify  
8 the candidate within two years of the payment of the public  
9 funds and the candidate shall repay the excess amount to the  
10 Hawaii citizens' election [~~campaign~~] fund.

11 (d) If the commission determines that any public funds  
12 were used for any improper purpose, the commission shall notify  
13 the candidate, and the candidate shall pay to the Hawaii  
14 citizens' election [~~campaign~~] fund an amount equal to three  
15 hundred per cent of such amount in addition to any fines under  
16 section 11-410 and section 11-412."

17 SECTION 11. Section 11-435, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "[+]§11-435[+] Report and recommendation. In January of  
20 each year, the commission shall submit to the legislature:



- 1           (1) A study and recommendations of reasonable campaign  
2           expenditure and contribution limits and the factors  
3           which may be relevant in their establishment; and  
4           (2) A report concerning the status of the Hawaii citizens'  
5           election [~~campaign~~] fund."

6           SECTION 12. Section 235-102.5, Hawaii Revised Statutes, is  
7           amended by amending subsection (a) to read as follows:

8           "(a) Any individual whose state income tax liability for  
9           any taxable year is \$3 or more may designate \$3 of the liability  
10          to be paid over to the Hawaii citizens' election [~~campaign~~]  
11          fund, any other law to the contrary notwithstanding, when  
12          submitting a state income tax return to the department. In the  
13          case of a joint return of a husband and wife having a state  
14          income tax liability of \$6 or more, each spouse may designate  
15          that \$3 be paid to the fund. The director of taxation shall  
16          revise the individual state income tax form to allow the  
17          designation of contributions to the fund on the face of the tax  
18          return and immediately above the signature lines. An  
19          explanation shall be included which clearly states that the  
20          check-off does not constitute an additional tax liability. If  
21          no designation was made on the original tax return when filed, a





1 designation may be made by the individual on an amended return  
 2 filed within twenty months and ten days after the due date for  
 3 the original return for such taxable year. A designation once  
 4 made whether by an original or amended return may not be  
 5 revoked."

6 SECTION 13. The campaign spending commission and the  
 7 department of taxation shall coordinate efforts for increasing  
 8 public awareness of the Hawaii citizens' election fund and take  
 9 steps necessary to create new forms and procedures for the  
 10 purposes of this Act.

11 SECTION 14. Statutory material to be repealed is bracketed  
 12 and stricken. New statutory material is underscored.

13 SECTION 15. This Act shall take effect on July 1, 2016.  
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INTRODUCED BY: ~~AC. Fitch-Apapa~~

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# S.B. NO. 2437

**Report Title:**

Campaign Spending; Hawaii Election Campaign Fund; Hawaii Citizens' Election Fund

**Description:**

Changes the name of the Hawaii election campaign fund to the Hawaii citizens' election fund.

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

