



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
TWENTY-EIGHTH LEGISLATURE, 2015**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 657, RELATING TO CAMPAIGN FINANCE.

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY AND LABOR

**DATE:** Wednesday, February 25, 2015      **TIME:** 9:15 a.m.

**LOCATION:** State Capitol, Room 016

**TESTIFIER(S):** Russell A. Suzuki, Attorney General, or  
Deirdre Marie-Iha or Valri Lei Kunimoto, Deputy Attorneys General

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Chair Keith-Agaran and Members of the Committee:

This bill requires representatives and senators to file an additional supplemental campaign finance disclosure report 10 days after a special session adjourns. The Department does not have legal objections to the bill and provides the following comments.

The Department raises a general concern regarding the need to bolster the bill's legislative history, and so makes several recommendations to improve the bill's chances of withstanding a constitutional challenge and achieving its intent. *To aid in the defense of this bill, the Department strongly suggests that the debates and reports that will comprise the bill's legislative history include a discussion of the justification for the additional reporting requirement.* This would be best accomplished by referencing data from the Campaign Spending Commission's reports showing why additional disclosure of campaign finance activities during a special session is necessary.

The Department also recommends that the term "special session" be defined or clarified. Article III, section 10, of the Hawaii State Constitution refers to Sessions, and provides for special sessions of both houses of the Legislature and special sessions of the Senate alone to confirm the appointment of judges and justices pursuant to article VI, section 3. Given the way the bill is written, it appears that the bill is intended to refer to a special session of both houses of the Legislature. Providing a definition or clarification for the type of special session will clarify this intent.

In addition, the bill refers to supplemental information in the new report which "shall apply to only information that is related to the candidate committee in preparation for and during

a special session . . ." (page 1, lines 16-17, through page 2, lines 1-21). It is unclear what information the bill is seeking. In order to avoid the inconsistent application of the vague "related to" standard, the Department recommends that the bill state the dates that the report covers (page 1, lines 12-15) or be added into this existing subsection governing supplemental reports (this is discussed below).

The Department is also concerned that the additional disclosure required by this bill may be redundant, given the existing reporting schedule under section 11-334, Hawaii Revised Statutes. This bill would create a new kind of supplemental report just following a special session of the Legislature. Instead of the existing amendments, the bill would better accomplish its apparent intent by adding this form of supplemental report into the *existing* section governing supplemental reports. See section 11-334(a)(4), Hawaii Revised Statutes. Because special sessions can occur at any time, we are also concerned that this supplemental report could overlap significantly with the existing reporting schedule. Under existing law the longest period that can elapse between reports is six months. (Note that the Campaign Spending Commission's current proposals (S.B. No. 452 and H.B. No. 175) to make supplemental reports due every January (instead of only January in election years) would make the reporting schedule even more frequent.)

Finally, under current law, supplemental reports are required to be current through one month prior to their filing. Assuming the form of supplemental report required by this bill is deemed necessary, the amendment to section 11-334(a)(4) could read (adding to the list of current supplemental report deadlines and making it internally consistent): "(C) Thirty calendar days after the conclusion of a special session of the full legislature, if the next regularly scheduled report required by this section is due more than ninety calendar days after the conclusion of the special session." The portion regarding when the report should be current could be amended to read: "The report shall be current through December 31 for the report filed on January 31 [~~and~~], current through June 30 for the report filed on July 31[-], and current through the conclusion of the special session, if applicable." These amendments would substitute for all of the existing amendments in the bill.

Thank you for the opportunity to provide our testimony.



STATE OF HAWAII  
CAMPAIGN SPENDING COMMISSION

235 SOUTH BERETANIA STREET, ROOM 300  
HONOLULU, HAWAII 96813

February 23, 2015

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

The Honorable Maile S.L. Shimabukuro, Vice Chair  
Senate Committee on Judiciary and Labor

Members of the Senate Committee on Judiciary and Labor

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

SUBJECT: **Testimony on S.B. No. 657, Relating to Campaign Finance**

Wednesday, February 25, 2015  
9:15 a.m., Conference Room 016

Thank you for the opportunity to testify on this bill. The Campaign Spending Commission ("Commission") offers the following comments on this bill.

This bill adds a new section to Chapter 11, Hawaii Revised Statutes ("HRS"). The measure would require a legislator to file a new supplemental report within ten days of the conclusion of a special session,<sup>1</sup> if the legislator's name will appear on the ballot in the election following the special session. The proposed supplemental report will cover the period between the immediately preceding disclosure period to the end of the special session.

In the proposed supplemental report, the legislator would only need to report "information that is related to the candidate committee in preparation for and during a special session of the legislature." This language may result in each individual legislator and the Commission having a different interpretation of what needs to be reported. For example, if during a special session, a legislator receives a \$500 contribution. Does the legislator need to report the contribution in the proposed supplemental report? Some would say yes because it was received during the special session. Others may say no because the contribution was not related to the legislator's preparation for the special session. To avoid confusion, the bill should simply refer to the disclosure requirements contained in HRS §11-333. These requirements are already accounted for in the Commission's candidate electronic filing system.

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<sup>1</sup> Since the proposed section refers in the beginning to "the convening of a special session of the legislature," the Commission assumes that the bill does not apply to senate (only) special sessions.

The bill is also not clear if the proposed supplemental report is in addition to the reports already required by HRS §11-334. For example, the contributions reported in a late contributions required by HRS §11-338 are also reported in the subsequent Final Primary Report or Final Election Period Report. This may be because the bill, as presently worded, does not appear to require the disclosure of the same information required of current reports. If the bill is amended to require the proposed supplemental report to contain information already required by HRS §11-333, the Commission recommends that the proposed supplemental report be in addition to any other report required to be filed by HRS §11-334, just like late contributions reports.