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**STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION**

235 SOUTH BERETANIA STREET, ROOM 300
HONOLULU, HAWAII 96813

February 21, 2017

TO: The Honorable Jill N. Tokuda, Chair
Senate Committee on Ways and Means

The Honorable Donovan M. Dela Cruz, 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: **Testimony on S.B. No. 440, S.D. 1, Relating to Violations of Campaign
Finance Law**

Wednesday, February 22, 2017
9:30 a.m., Conference Room 211

Thank you for the opportunity to testify on this bill.¹ The Campaign Spending Commission ("Commission") supports this bill.

This bill amends Hawaii Revised Statutes ("HRS") §11-410 by amending subsection (a)(1) by replacing "an individual" with "a person other than a noncandidate committee that makes only independent expenditures" and amending subsection (a)(2) by replacing "corporation, organization, association, or labor union" with "noncandidate committee that makes only independent expenditures and has either received at least one contribution of more than \$10,000 from any one person or has made expenditures of more than 10,000 in the aggregate, in an election period." The bill also increases the amount of a fine that the Commission may assess against a committee that makes only independent expenditures (Super PAC) from an amount not to exceed \$1,000 to an amount not to exceed \$5,000 up to an amount not exceeding three times an unlawful contribution or expenditure. The increase in the amount

¹ The companion bill in the House is H.B. No. 283, which passed the House Judiciary Committee and was referred to the House Finance Committee on February 17, 2017 as H.D. 1. This bill is a modification of a measure introduced in 2016 as S.B. 2029.

of the fine is necessary in enforcement cases against Super PACs. Further, the trebling of the amount of an unlawful contribution or expenditure as a fine is already applicable to individuals. It makes sense to extend this potential increased fine to Super PACs. The Commission believes that the higher fine amount will be a more effective deterrent for Super PACs.

The bill also allows the Commission to recover its costs of investigation against a person found by the Commission to have violated the law. Investigative costs are paid out of the Hawaii Election Campaign Fund ("HECF"). The HECF, which stands at \$1 million as of December 31, 2016, decreases each fiscal year by an average amount of \$413,370.16. Thus, the Commission seeks to recover the cost of bringing an enforcement action against a person by having that person, if found to be in violation of law, be responsible for the cost of the investigation, rather than the HECF. The most typical cost of an investigation is the bank fee charged to the Commission for the production of subpoenaed documents. Another cost is the use of investigative services. The Commission does not have an investigator on staff. Thus, the Commission has to contract with an outside agency for investigative services from time to time.

The Commission requests that this Committee pass this measure.



Senate Ways and Means Committee
Chair Jill Tokuda, Vice Chair Donovan Dela Cruz

02/22/2017 at 9:30 AM in Room 211
SB440 SD1 – Relating to Violations of Campaign Finance Law

TESTIMONY — SUPPORT
Corie Tanida, Executive Director, Common Cause Hawaii

Dear Chair Tokuda, Vice Chair Dela Cruz and members of the Senate Ways and Committee:

Common Cause Hawaii supports SB440 SD1 which increases the amounts of fines that may be assessed against noncandidate committees making only independent expenditures (a.k.a. Super PACs) for campaign spending violations. This bill also allows the Campaign Spending Commission to recover its costs from violators, and directs moneys collected for costs to be deposited in the Hawaii Election Campaign Fund.

We believe that the proposed fine increase toward Super PACs from \$1,000 to \$5,000 takes into account inflation, and the current political landscape we currently operate in as a result of the 2010 U.S. Supreme Court's *Citizens United* decision which allowed private entities to funnel unlimited amounts of money into elections.

Allowing the fines collected to be deposited into the Hawaii Election Campaign Fund would further support the sustainability of Hawaii's partial public funding program and the Campaign Spending Commission, which offers a valuable service to the public by regulating and enforcing Hawaii's campaign spending laws.

Thank you for the opportunity to offer testimony **supporting SB440 SD1**.



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COMMITTEE ON WAYS AND MEANS

Wednesday, February 22, 2017 at 9:30 a.m. in Room 211

SB 440 SD1 RELATING TO VIOLATIONS OF CAMPAIGN FINANCE LAW **TESTIMONY**

Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair Tokuda, Vice-Chair Dela Cruz, and Committee Members:

The League of Women Voters of Hawaii strongly supports SB440 SD1 which increases the fines which may be levied on independent expenditure non-candidate committees with substantial financial activity. SB440 SD1 also allows the Campaign Spending Commission to recover the costs of its investigations, and deposits money received for those costs into the Hawaii Election Campaign Fund.

As context, we remind the Committee that the CSC currently must fund its operating costs from the Hawaii Election Campaign Fund, which currently receives money only from the voluntary individual tax return check-off. As explained to tax filers, and as originally intended by the Legislature, the HECF is to be used for the partial public financing of political campaigns by eligible candidates. The HECF is becoming depleted due to reduced input and the increased out-flow to cover CSC operating costs. The partial public financing program is in danger due to this depletion.

SB440 SD1 increases substantially the fines applicable to an independent expenditure non-candidate committee. The League strongly supports this provision which would reinforce the importance of compliance with Hawaii's campaign laws.

SB440 SD1 proposes to increase the HECF by recovering costs as well as fines from persons or committees fined by the CSC. The amount paid for costs would be deposited in the HECF. The League supports this effort to pay some of the operating expenses of the CSC from a source other than the individual tax return check off, although we would prefer that all CSC operating expenses be paid from the general fund.

SB440 SD1 states that the amount of fines paid will be deposited in the general fund. The League suggests that fines, as well as costs, should be deposited in the HECF to avoid its depletion.



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We urge you to pass this bill. Thank you for the opportunity to submit testimony.

Date: February 20, 2017

To: The Honorable Senator Jill N. Tokuda, Chair
Senator Donovan M. Dela Cruz, Vice Chair
Members of the Senate Committee on Ways and Means

From: Christine Trecker

Subject: SB440 SD1 Relating to Violations of Campaign Finance Law - **Support**

Special interest campaign spending in Hawaii has reached new heights, making it more important than ever that violators of Hawaii's campaign spending laws be held accountable and required to pay appropriate fines.

I strongly support the proposals in this bill to increase violation fines and to also recover the Campaign Spending Commission's costs incurred in conjunction with these violations. Further, I believe that both the costs and fines recovered should be deposited into the Hawaii Election Campaign Fund.

Thank you for the opportunity to testify.