

KRISTIN E. IZUMI-NITAO  
EXECUTIVE DIRECTOR



PHONE: (808) 586-0285  
FAX: (808) 586-0288  
WWW.HAWAII.GOV/CAMPAIGN

**STATE OF HAWAII**  
**CAMPAIGN SPENDING COMMISSION**  
235 SOUTH BERETANIA STREET, ROOM 300  
HONOLULU, HAWAII 96813

January 31, 2017

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

The Honorable Karl Rhoads, Vice Chair  
Senate Committee on Judiciary and Labor

Members of the Senate Committee on Judiciary and Labor

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

SUBJECT: **Testimony on S.B. No. 440, Relating to Violations of Campaign Finance Law**

Thursday, February 2, 2017  
9:00 a.m., Conference Room 016

Thank you for the opportunity to testify on this bill.<sup>1</sup> 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 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.

---

<sup>1</sup> The companion bill is H.B. 283. This bill is a modification of a measure introduced in 2016 as S.B. 2029.

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.



49 South Hotel Street, Room 314 | Honolulu, HI 96813  
www.lwv-hawaii.com | 808.531.7448 | voters@lwv-hawaii.com

## COMMITTEE ON JUDICIARY AND LABOR

Thursday February 2, 2017 at 9:00 a.m. in Room 016

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

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

Chair Keith-Agaran, Vice-Chair Rhoads, and Committee Members:

**The League of Women Voters of Hawaii strongly supports SB440 which increases the fines which may be levied on independent expenditure non-candidate committees with substantial financial activity. SB440 also allows the Campaign Spending Commission to recover the costs of its investigations, and to deposit 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 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 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 states that the number 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.



49 South Hotel Street, Room 314 | Honolulu, HI 96813  
[www.lwv-hawaii.com](http://www.lwv-hawaii.com) | 808.531.7448 | [voters@lwv-hawaii.com](mailto:voters@lwv-hawaii.com)

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



Senate Judiciary and Labor Committee  
Chair Gilbert S.C. Keith-Agaran, Vice Chair Karl Rhoads

Thursday 02/02/2017 at 9:00 AM in Room 016  
SB440 – Relating to Violations of Campaign Finance Law

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

---

Dear Chair Keith-Agaran, Vice Chair Rhoads and members of the House Judiciary and Labor Committee:

**Common Cause Hawaii supports SB440** 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**.