
A BILL FOR AN ACT

RELATING TO ELECTIONEERING COMMUNICATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that democracy is best
2 served when voters are informed about the sources of advertising
3 seeking to influence their vote, and every citizen is afforded a
4 reasonably equal opportunity to influence the outcome of each
5 election.

6 The legislature further finds that candidate committees
7 must publicly report the source of every donation and details of
8 every expenditure, and have well established and reasonable
9 limits on the amounts of any political donation a candidate may
10 accept, which ensures citizens a reasonably equal opportunity to
11 participate in supporting candidates and influencing elections.

12 However, in recent years the influence of noncandidate
13 committees operating without meaningful transparency in the
14 sources of their money and without limits on how much they can
15 raise or spend has begun to reduce transparency and undermine
16 any reasonably equal opportunity for citizens to participate in
17 and influence elections.



1 The legislature further finds that logistical flaws in
2 current electioneering communication laws mean an electioneering
3 communication report must be filed for every single expenditure
4 no matter how small, including one for every single envelope
5 mailed, once spending an aggregate of \$2,000.

6 Accordingly, the purpose of this Act is to:

- 7 (1) Provide greater transparency and reporting
8 requirements for noncandidate committees which
9 currently allow some individuals to wield an
10 unreasonable unequal influence on elections; and
11 (2) Streamline the reporting process for electioneering
12 communications.

13 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
14 by adding a new section to part XIII to be appropriately
15 designated and to read as follows:

16 "§11- Electioneering communications; weekly reports.

17 (a) Each person or noncandidate committee that publishes or
18 publically distributes during the applicable reporting period an
19 electioneering communication or communications from a single
20 vendor costing an aggregate amount of more than \$2,000 in one
21 week shall file a report with the commission that includes:



1 (1) The aggregate dollar value of any communications first
2 published or distributed that week and the vendor or
3 vendors to whom the money was paid; and

4 (2) The value of each communication and the date on which
5 the communication was published or distributed;
6 provided that if no electioneering communications were made
7 costing an aggregate amount of more than \$2,000 from a single
8 vendor in one week, no report is required for that week;
9 provided further that no report shall be due for the Sunday and
10 Monday immediately preceding the Tuesday on which a general
11 election is held.

12 (b) Reports required pursuant to this section shall be due
13 by 4:00 p.m. on the Monday after the week covered by the report;
14 provided that if the Monday after the week covered by the report
15 is a state holiday, the report shall be due at 4:00 p.m. on the
16 next weekday that is not a state holiday; provided further that
17 for the final week before a Saturday on which a primary election
18 is held, the report shall be due at 4:00 p.m. on the Friday
19 preceding the primary election and the report shall cover the
20 period from the preceding Sunday through the preceding Thursday.

21 (c) For the purposes of this section:



1 "Electioneering communication" means the same as defined in
2 section 11-341.

3 "Reporting period" means the thirty days preceding a
4 primary election or the sixty days preceding a general or
5 special election.

6 "Week" means the period of time from 12:00 a.m. on Sunday
7 until 11:59 p.m. on the following Saturday."

8 SECTION 3. Section 11-341, Hawaii Revised Statutes, is
9 amended to read as follows:

10 **"§11-341 Electioneering communications; statement of**
11 **information.** (a) Each person [~~who~~] or noncandidate committee
12 that makes an expenditure for electioneering communications in
13 an aggregate amount of more than \$2,000 during any calendar year
14 shall file with the commission a statement of information within
15 twenty-four hours of each disclosure date provided in this
16 section.

17 (b) Each statement of information shall contain the
18 following:

19 (1) The name of the person or noncandidate committee
20 making the expenditure, name of any person or entity
21 sharing or exercising discretion or control over the



- 1 person[~~r~~] or noncandidate committee, and the custodian
2 of the books and accounts of the person or
3 noncandidate committee making the expenditure;
- 4 (2) The names and titles of the executives or board of
5 directors who authorized the expenditure, if the
6 expenditure was made by a noncandidate committee,
7 business entity, or an organization;
- 8 (3) The state of incorporation or formation and principal
9 address of the noncandidate committee, business
10 entity, or organization or for an individual, the
11 name, address, occupation, and employer of the
12 individual making the expenditure;
- 13 (4) The amount of each expenditure during the period
14 covered by the statement and the identification of the
15 person to whom the expenditure was made;
- 16 (5) The elections to which the electioneering
17 communications pertain and the names of any clearly
18 identifiable candidates and whether those candidates
19 are supported or opposed;
- 20 (6) If the expenditures were made by a candidate committee
21 or noncandidate committee, the names and addresses of



1 all persons who contributed to the candidate committee
2 or noncandidate committee for the purpose of
3 publishing or broadcasting the electioneering
4 communications;

5 (7) If the expenditures were made by an organization other
6 than a candidate committee or noncandidate committee,
7 the names and addresses of all persons who contributed
8 to the organization for the purpose of publishing or
9 broadcasting the electioneering communications;

10 (8) Whether or not any electioneering communication is
11 made in coordination, cooperation, or concert with or
12 at the request or suggestion of any candidate,
13 candidate committee, or noncandidate committee, or
14 agent of any candidate if any, and if so, the
15 identification of the candidate, candidate committee,
16 or noncandidate committee, or agent involved; and

17 (9) The three top contributors as required under section
18 11-393, if applicable.

19 (c) An electioneering communication statement of
20 information filed pursuant to this section shall be in addition
21 to the filing of any other report required under this part.



1 (d) For purposes of this section:

2 "Disclosure date" means, for every calendar year~~[, the~~
3 ~~first date by which a person has made expenditures during that~~
4 ~~same year of more than \$2,000 in the aggregate for~~
5 ~~electioneering communications, and the date of any subsequent~~
6 ~~expenditures by that person for electioneering communications.] :~~

7 (1) The first date on which an electioneering
8 communication is publicly distributed; provided that
9 the person making the electioneering communication has
10 made expenditures for electioneering communications of
11 more than \$2,000 in the aggregate during that same
12 year; and

13 (2) Any other date on which an electioneering
14 communication is publicly distributed during that same
15 year; provided that the person making the
16 electioneering communication has made expenditures for
17 electioneering communications of more than \$2,000 in
18 the aggregate since the most recent disclosure date
19 during that calendar year.

20 "Electioneering communication" means any advertisement that
21 is broadcast from a cable, satellite, television, or radio



1 broadcast station; published in any periodical or newspaper or
2 by electronic means; or sent by mail [~~at a bulk rate~~], and that:

- 3 (1) Refers to a clearly identifiable candidate;
- 4 (2) Is made, or scheduled to be made, [~~either~~] within
5 thirty days prior to a primary or initial special
6 election or within sixty days prior to a general or
7 special election; and
- 8 (3) Is not susceptible to any reasonable interpretation
9 other than as an appeal to vote for or against a
10 specific candidate.

11 "Electioneering communication" shall not include
12 communications:

- 13 (1) In a news story or editorial disseminated by any
14 broadcast station or publisher of periodicals or
15 newspapers, unless the facilities are owned or
16 controlled by a candidate, candidate committee, or
17 noncandidate committee;
- 18 [~~(2) That constitute expenditures by the expending~~
19 ~~organization;~~
- 20 ~~(3)]~~ (2) In house bulletins; or



1 ~~[(4)]~~ (3) That constitute a candidate debate or forum, or
2 solely promote a debate or forum and are made by or on
3 behalf of the person sponsoring the debate or forum.

4 ~~[(e) For purposes of this section, a person shall be~~
5 ~~treated as having made an expenditure if the person has executed~~
6 ~~a contract to make the expenditure.] "~~

7 SECTION 4. Section 11-393, Hawaii Revised Statutes, is
8 amended to read as follows:

9 " ~~[H]~~ §11-393 ~~[H]~~ Identification of ~~[certain top]~~
10 contributors to noncandidate committees making only independent
11 expenditures. (a) An advertisement shall contain an additional
12 notice in a prominent location immediately after or below the
13 notices required by section 11-391, if the advertisement is
14 broadcast, televised, circulated, or published, including by
15 electronic means, and is paid for by a noncandidate committee
16 that certifies to the commission that it makes only independent
17 expenditures. This additional notice shall start with the
18 words, "The three top contributors to the noncandidate committee
19 that paid for this advertisement are", followed by the names of
20 the three top contributors ~~[, as defined in subsection (e),]~~ who
21 made the highest aggregate contributions to the noncandidate



1 committee [~~for the purpose of funding the advertisement~~];

2 provided that:

3 (1) If a noncandidate committee is only able to identify
4 two top contributors who made contributions [~~for the~~
5 ~~purpose of funding the advertisement,~~] to the
6 noncandidate committee, the additional notice shall
7 start with the words, "The two top contributors to the
8 noncandidate committee that paid for this
9 advertisement are", followed by the names of the two
10 top contributors; and

11 (2) If a noncandidate committee is able to identify only
12 one top contributor who made contributions [~~for the~~
13 ~~purpose of funding the advertisement,~~] to the
14 noncandidate committee, the additional notice shall
15 start with the words, "The top contributor to the
16 noncandidate committee that paid for this
17 advertisement is", followed by the name of the top
18 contributor[~~;~~

19 ~~(3) If a noncandidate committee is unable to identify any~~
20 ~~top contributors who made contributions for the~~
21 ~~purpose of funding the advertisement, the additional~~



1 ~~notice shall start with the words, "The three top~~
2 ~~contributors for this noncandidate committee are",~~
3 ~~followed by the names of the three top contributors~~
4 ~~who made the highest aggregate contributions to the~~
5 ~~noncandidate committee; and~~

6 ~~(4) If there are no top contributors to the noncandidate~~
7 ~~committee, the noncandidate committee shall not be~~
8 ~~subject to this section].~~

9 In no case shall a noncandidate committee be required to
10 identify more than three top contributors pursuant to this
11 section.

12 (b) If a noncandidate committee has more than three top
13 contributors who contributed in equal amounts, the noncandidate
14 committee may select which of the top contributors to identify
15 in the advertisement; provided that the top contributors not
16 identified in the advertisement did not make a higher aggregate
17 contribution than those top contributors who are identified in
18 the advertisement. The additional notice required for
19 noncandidate committees described under this subsection shall
20 start with the words "Three of the top contributors to the
21 noncandidate committee that paid for this advertisement are" [ex



1 ~~"Three of the top contributors to this noncandidate committee~~
2 ~~are", as appropriate], followed by the names of the three top~~
3 ~~contributors.~~

4 (c) This section shall not apply to advertisements
5 broadcast by radio or television of such short duration that
6 including a list of top contributors in the advertisement would
7 constitute a hardship to the noncandidate committee paying for
8 the advertisement. A noncandidate committee shall be subject to
9 all other requirements under this part regardless of whether a
10 hardship exists pursuant to this subsection. The commission
11 shall adopt rules pursuant to chapter 91 to establish criteria
12 to determine when including a list of top contributors in an
13 advertisement of short duration constitutes a hardship to a
14 noncandidate committee under this subsection.

15 (d) Any noncandidate committee that violates this section
16 shall be subject to a fine under section 11-410.

17 ~~[(c) For purposes of this part, "top contributor" means a~~
18 ~~contributor who has contributed an aggregate amount of \$10,000~~
19 ~~or more to a noncandidate committee within a twelve month period~~
20 ~~prior to the purchase of an advertisement.] "~~



1 SECTION 5. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 6. This Act shall take effect on March 15, 2094.



Report Title:

Hawaii Campaign Spending Commission Package; Electioneering Communication; Disclosure Dates

Description:

Requires all persons and committees that make electioneering communication expenditures to a single vendor of more than \$2,000 in aggregate within one week to file a report with the Campaign Spending Commission within thirty days of a primary election or sixty days of a general or special election. Amends the definition of "disclosure date" to mean the date when the electioneering communication is publicly distributed. Expands the definition of "electioneering communication" in section 11-341(d), HRS, to apply to advertisements: (1) sent by any mail rate; and (2) that are expenditures of an organization. Repeals section 11-341(e), HRS. Requires any advertisement by a noncandidate committee that makes only independent expenditures to disclose its top three contributors. Effective 3/15/2094.
(SD1)

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