

JAN 23 2020

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# A BILL FOR AN ACT

RELATING TO ELECTION CAMPAIGNS.

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

**PART I**

1  
2 SECTION 1. The legislature finds that a healthy and  
3 dynamic democracy is one with a fair election process that  
4 encourages a high caliber of civic dialogue and participation  
5 among candidates. Providing an opportunity to allow candidates  
6 and noncandidate committees to voluntarily agree to a code of  
7 fair campaign practices would preserve the basic principles of  
8 decency, honesty, and fair play are observed during campaigns.

9 The purpose of this part is to adopt the code of fair  
10 campaign practices that had been in effect for over twenty years  
11 to allow candidates and noncandidates to agree to conduct their  
12 campaigns consistent with the code.

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

16 " . Fair Campaign Practices



1           **§11-A Purpose.** The purpose of this subpart is to allow  
2 the opportunity for a candidate or noncandidate committee to  
3 conduct their campaigns consistent with a code of fair campaign  
4 practices to preserve basic principles of decency, honesty, and  
5 fair play. A code of fair campaign practices allows citizens to  
6 exercise their constitutional right to vote that is free from  
7 dishonest and unethical practices.

8           **§11-B Code of fair campaign practices.** Any registered  
9 candidate or noncandidate committee may sign and pledge to  
10 conduct their campaigns consistent with the code of fair  
11 campaign practices. The code shall read as follows:

12   "CODE OF FAIR CAMPAIGN PRACTICES

13 There are basic principles of decency, honesty, and fair play  
14 that every candidate and noncandidate committee in the State of  
15 Hawaii has a moral obligation to observe and uphold in order  
16 that, after vigorously contested but fairly conducted campaigns,  
17 our citizens may exercise their constitutional right to a free  
18 and informed choice that expresses their will.

19

20 THEREFORE:



# S.B. NO. 3170

- 1           (1) I SHALL CONDUCT my campaign openly and publicly,  
2           discussing the issues as I see them, presenting my  
3           record and policies with sincerity and frankness, and  
4           criticizing without fear and without malice the record  
5           and policies of my opponents and their political  
6           parties that merit such criticism.
- 7           (2) I SHALL NOT USE campaign material relating to any  
8           candidate's election which misrepresents, distorts, or  
9           otherwise falsifies the facts regarding the candidate.
- 10          (3) I SHALL REFRAIN from the use of personal vilification,  
11          character defamation, or any other form of scurrilous  
12          personal attacks on any candidate or the candidate's  
13          family.
- 14          (4) I SHALL CONDEMN any dishonest or unethical practice  
15          that tends to corrupt or undermine our American system  
16          of free elections or that hampers or prevents the full  
17          and free expression of the will of the voters.
- 18          (5) I SHALL CONDEMN any appeal to prejudice based on race,  
19          sex, sexual orientation, religion, national origin, or  
20          age.



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- 1           (6) I SHALL NOT COERCE election help or campaign  
2                   contributions for myself or for any other candidate  
3                   from my employees or my subordinates.
- 4           (7) I SHALL ACCEPT full responsibility for the conduct of  
5                   those persons working directly in my campaign and  
6                   shall pledge immediate action against retaining any  
7                   person who violates any provision of this Code or the  
8                   laws governing elections.
- 9           (8) I SHALL NOT ORIGINATE or spread any malicious or  
10                   unfounded accusations against any candidate that are  
11                   aimed at creating or exploiting doubts on the part of  
12                   the public as to the candidate's loyalty and  
13                   patriotism.
- 14           (9) I SHALL IMMEDIATELY AND PUBLICLY repudiate support  
15                   deriving from any individual or group, acting on  
16                   behalf of my candidacy, who resorts to the methods and  
17                   tactics contrary to the Code of Fair Campaign  
18                   Practices.

19  
20 I, the undersigned, candidate for election to public office in  
21 the State of Hawaii or chairperson of a noncandidate committee,



1 hereby voluntarily endorse, subscribe to, and solemnly pledge  
2 myself to conduct my campaign in accordance with the above  
3 principles and practices."

4 **PART II**

5 SECTION 3. The purpose of this part is to allow for a  
6 candidate that obtains the minimum qualifying contribution  
7 amount for public funding be eligible to receive payments of \$3  
8 for each \$1 of qualifying contributions under \$10 in excess of  
9 minimum qualifying contributions amounts.

10 SECTION 4. Section 11-429, Hawaii Revised Statutes, is  
11 amended by amending subsection (b) to read as follows:

12 "(b) A candidate shall obtain the minimum qualifying  
13 contribution amount set forth in subsection (a) once for the  
14 election period.

15 (1) If the candidate obtains the minimum qualifying  
16 contribution amount, the candidate is eligible to  
17 receive:

18 (A) The minimum payment in an amount equal to the  
19 minimum qualifying contribution amounts; [and]



1 (B) Payments of \$1 for each \$1 of qualifying  
2 contributions in excess of the minimum qualifying  
3 contribution amounts; and

4 (C) Payments of \$3 for each \$1 of qualifying  
5 contributions under \$10 of all qualifying  
6 contribution amounts; and

7 (2) A candidate shall have at least one other qualified  
8 candidate as an opponent for the primary or general  
9 election to receive public funds for that election."

10 PART III

11 SECTION 5. The legislature finds that public campaign  
12 financing aims to ensure that no particular donor has an  
13 outsized influence on the outcome of any election and increased  
14 public financing would substantially improve our system of  
15 conducting a campaign. However, public financing remains the  
16 least-used source of funds, partly due to the fact that the  
17 amount of public funds held by the campaign spending commission  
18 for this purpose is limited. The campaign spending commission  
19 reports that the Hawaii election campaign fund balance is  
20 approximately \$1,100,000, and receipts for participating  
21 candidates average about \$300,000 for each election cycle. The



1 program is primarily funded through a tax return checkoff  
2 whereby citizens choose whether they want to contribute \$3 from  
3 their tax burden to the Hawaii election campaign fund.

4 Candidates who opt not to use public funds can solicit  
5 contributions from individuals, political action committees,  
6 unions, parties, and corporations, without having to abide by  
7 state expenditure limits. In 2018, eighteen independent  
8 expenditure committees, also known as "Super PACs", collected  
9 \$7,042,518.89 and spent \$4,961,628.18. In contrast, the  
10 campaign spending commission in 2018 disbursed \$105,966.88 to  
11 eighteen candidates, eight of whom were successful.

12 The legislature further finds that given the dominance of  
13 independent expenditure committees in election financing, it is  
14 appropriate for some to contribute to the partial public  
15 financing.

16 The purpose of this part is to establish a public  
17 participation fee to be paid by noncandidate committees that  
18 only make independent expenditures and to direct those funds to  
19 the partial public financing program.



1 SECTION 6. Chapter 11, Hawaii Revised Statutes, is amended  
2 by adding a new subpart to part XIII to be appropriately  
3 designated and to read as follows:

4 " . Public Participation Fee

5 §11-C Public participation fee. (a) A noncandidate  
6 committee that only makes independent expenditures for the  
7 election or defeat of a clearly identified candidate not made in  
8 concert or cooperation with or at the request or suggestion of a  
9 candidate, candidate committee, a party, or their agents shall  
10 pay a public participation fee equal to 0.05 per cent of its  
11 aggregate contributions during each two-year election cycle.

12 (b) The public participation fee shall be deposited into  
13 the Hawaii election campaign fund to be used for matching funds  
14 allocated to candidates who participate in partial public  
15 financing pursuant to section 11-429(b)(1)(C).

16 (c) The campaign finance commission shall set the  
17 timetable for payment of the public participation fee."

18 PART IV

19 SECTION 7. The legislature finds that in 1995, major  
20 reforms were made to the campaign spending law bringing about  
21 significant and comprehensive reforms for fair elections





1 processes. The reforms required candidates to abide by spending  
2 limits by making public funding more attractive to qualified  
3 candidates and leveled the playing field for newcomers to the  
4 political process, while still permitting them, as well as the  
5 incumbents, to raise the funds necessary to get their message  
6 across to the public.

7 The legislature further finds that since 1995, the  
8 expenditure limit amounts have not been changed, although costs  
9 incurred by campaigning continue to rise. Increasing the  
10 amounts will allow candidates who voluntarily agree to limit  
11 campaign expenditures a more competitive playing field.

12 The purpose of this part is to increase spending limits by  
13 ten per cent for candidates that voluntarily agree to limit  
14 campaign expenditures.

15 SECTION 8. Section 11-423, Hawaii Revised Statutes, is  
16 amended by amending subsection (d) to read as follows:

17 "(d) From January 1 of the year of any primary, special,  
18 or general election, the aggregate expenditures for each  
19 election by a candidate who voluntarily agrees to limit campaign  
20 expenditures, inclusive of all expenditures made or authorized  
21 by the candidate alone, all treasurers, the candidate committee,



1 and noncandidate committees on the candidate's behalf, shall not  
2 exceed the following amounts expressed, respectively multiplied  
3 by the number of voters in the last preceding general election  
4 registered to vote in each respective voting district:

- 5 (1) For the office of governor—~~[\$2.50]~~ \$2.75;
- 6 (2) For the office of lieutenant governor—~~[\$1.40]~~ \$1.54;
- 7 (3) For the office of mayor—~~[\$2.00]~~ \$2.20;
- 8 (4) For the offices of state senator, state  
9 representative, county council member, and prosecuting  
10 attorney—~~[\$1.40]~~ \$1.54; and
- 11 (5) For all other offices—~~[20]~~ 22 cents."

12 PART V

13 SECTION 9. In codifying the new sections added by sections  
14 2 and 6 of this Act, the revisor of statutes shall substitute  
15 appropriate section numbers for the letters used in designating  
16 the new sections in this Act.

17 SECTION 10. Statutory material to be repealed is bracketed  
18 and stricken. New statutory material is underscored.

19 SECTION 11. This Act shall take effect upon its approval.

20

INTRODUCED BY:

*[Handwritten Signature]*  
Kurt Favella



# S.B. NO. 3170

**Report Title:**

Election Campaigns; Code of Fair Campaign Practices; Public Participation Fee; Spending Limits

**Description:**

PART I: Adopts the code of fair campaign practices to allow candidates and noncandidates to agree to conduct their campaigns consistent with the code. PART II: Allows for a candidate that obtains the minimum qualifying contribution amount for public funding be eligible to receive payments of \$3 for each \$1 of qualifying contributions under \$10 in excess of minimum qualifying contributions amounts. PART III: Establishes a public participation fee to be paid by noncandidate committees that only make independent expenditures and directs those funds to the partial public financing program. PART IV: Increases spending limits by ten per cent for candidates that voluntarily agree to limit campaign expenditures.

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

