

JAN 17 2019

A BILL FOR AN ACT

RELATING TO CORPORATIONS.

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

1 SECTION 1. Hawai'i's corporate reporting requirements serve
2 important interests: providing the shareholders with
3 information, deterring actual corruption and avoiding any
4 appearance thereof, and gathering the data necessary to enforce
5 more substantive electioneering restrictions.

6 The government has an interest in ensuring that
7 shareholders are informed of corporate affairs. Corporate
8 reporting obligations provide information to the shareholders
9 about who is speaking—information that "is vital to the
10 efficient functioning of the marketplace of ideas, and thus to
11 advancing the democratic objectives underlying the First
12 Amendment." *Yamada v. Snipes*, 786 F.3d 1182 (9th Cir. 2015),
13 citing, among other cases, *McCutcheon v. Federal Election*
14 *Comm'n*, 572 U.S. 185, 134 S. Ct. 1434, 1459–60 (2014). This
15 transparency enables the shareholders to make informed
16 decisions. Providing these reports directly to the shareholders



1 ensures that shareholders will be informed of corporate affairs.
2 Shareholders may also share information with the electorate at
3 large.

4 Hawai'i's corporate reporting requirements deter actual
5 corruption and avoid the appearance of corruption by exposing
6 the source of contributions and expenditures. Providing reports
7 to shareholders is an important step in deterring actual
8 corruption by corporations attempting to circumvent reporting
9 and disclosure requirements. Shareholders may use this
10 information to file derivative suits.

11 Corporate reporting requirements provide a means of
12 detecting violations of valid contribution limitations and
13 preventing circumvention of Hawai'i's campaign spending
14 limitations, including rules that bar contributions by foreign
15 corporations. Providing reports to shareholders provides
16 additional scrutiny of compliance with reporting and disclosure
17 requirements. Shareholders have a unique interest in analyzing
18 and scrutinizing corporate expenditures.

19 The purpose of this Act is to require domestic and foreign
20 corporations to provide their shareholders with reports of
21 independent expenditures and political contributions. In order



1 to make the reporting requirement of this Act less burdensome on
2 the corporation, the corporation may use other reports that
3 contain the pertinent information that is related to independent
4 expenditures, contributions to noncandidate committees, and
5 contributions to candidate committees rather than requiring the
6 corporation to prepare a separate report with the same
7 information. For example, corporations may provide their
8 shareholders with copies of the reports filed with the campaign
9 spending commission. Section 11-321, Hawaii Revised Statutes,
10 requires corporations that make contributions or expenditures of
11 over \$1,000 in an election period to register as a noncandidate
12 committee. Consequently, the information this Act seeks to make
13 available to the shareholders may already be available elsewhere
14 and may be used to partially satisfy reporting requirements
15 under this Act.

16 SECTION 2. Chapter 414, Hawaii Revised Statutes, is
17 amended by adding a new section to be appropriately designated
18 and to read as follows:

19 "§414- Report to shareholders. (a) All domestic and
20 foreign corporations authorized to transact business in this
21 State that make more than \$10,000 of independent expenditures



1 and contributions in a year shall disclose to their shareholders
2 in an annual report the corporation's independent expenditures
3 and contributions to any candidate committee or noncandidate
4 committee. The annual report shall conform to the requirements
5 of subsection (b) and the resulting report shall be delivered to
6 shareholders at the same time that the corporation's annual
7 report is filed pursuant to section 414-472.

8 (b) The foreign or domestic corporation may elect to
9 report aggregate amounts. The report shall include separate
10 aggregate totals for independent expenditures, contributions to
11 noncandidate committees, and contributions to candidate
12 committees. For each separate aggregate total, the reports
13 shall include an identification of the specific monetary or
14 nonmonetary benefit that accrued to the domestic or foreign
15 corporation as a direct result of independent expenditures,
16 contributions to noncandidate committees, and contributions to
17 candidate committees; provided that if the specific monetary or
18 nonmonetary benefit to the corporation is zero or
19 unidentifiable, the domestic or foreign corporation shall
20 specify that the monetary or nonmonetary benefit to the domestic
21 or foreign corporation is zero or unidentifiable. The



1 corporation may fulfill the requirements of this subsection by
2 delivering other reports that disclose the required information
3 in more detail to the shareholders.

4 (c) For the purposes of this section:

5 "Contribution" shall have the same meaning as in section
6 11-302.

7 "Independent expenditure" shall have the same meaning as in
8 section 11-302."

9 SECTION 3. New statutory material is underscored.

10 SECTION 4. This Act shall take effect upon its approval.

11

INTRODUCED BY:

Kal Rhandh

John' Bosh
AC with Agam

[Signature]

[Signature]



S.B. NO. 96

Report Title:

Corporation Reports; Independent Campaign Expenditures and Political Contributions

Description:

Requires domestic and foreign corporations to provide their shareholders with reports of independent expenditures and political contributions.

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