



STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

235 SOUTH BERETANIA STREET, ROOM 300
HONOLULU, HAWAII 96813

February 9, 2021

TO: The Honorable Angus L.K. McKelvey, Chair
House Committee on Government Reform

The Honorable Tina Wildberger, Vice Chair
House Committee on Government Reform

Members of the House Committee on Government Reform

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

SUBJECT: **Testimony on H.B. No. 144, Relating to Electioneering Communications**

Friday, February 12, 2021
10:00 a.m., Via Videoconference

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

This measure amends Hawaii Revised Statutes (“HRS”) §11-341 to increase the amount of aggregate expenditures from more than \$2,000 to more than \$5,000 before the filing of a statement of information for electioneering communications is required. The bill also amends the definition of “disclosure date” from the first date a person has made expenditures during that year to the first date the electioneering communication is publicly distributed, provided that more than \$5,000 has been spent.

The bill further amends the definition of “electioneering communication” by deleting “at a bulk rate” from advertisements sent by mail so that all advertisements sent by mail, be it bulk rate or first class, will be covered by the definition. Finally, the bill deletes items “that constitute expenditures by the expending organization” from the types of communications excluded from the definition of electioneering communication.

The changing of the disclosure date to when the advertisement runs, which triggers the need to file the statement of information, is timelier since contracts for these advertisements could occur weeks or months before the advertisements are publicly distributed. Also, increasing the threshold amount from \$2,000 to \$5,000 will reduce the burden on smaller

¹ The companion bill is S.B. No. 404.

candidate committees with less activity. Thus, committees that purchase only inexpensive social media advertisements, and a candidate for a house district who pays for only one district-wide mailer would probably not need to file statements of information.

Finally, it makes no sense to consider advertisements mailed by bulk rate only, and not by any other postal rate, to be electioneering communications. Also, some committees have used the exclusion of items “that constitute expenditures by the expending organization” from the definition of electioneering communication, as a reason why those committees did not have to file statements of information. However, all committees are required to file statements of information for electioneering communications. HRS §§11-341(b)(2), 11-341(b)(3), & 11-341(b)(6). This exclusion is not needed since it cannot apply to committees already registered with the Commission and since the spending threshold for electioneering communications is more than \$1,000, any person filing a statement of information for electioneering communication will have to register with the Commission.

Hawaii
Holding Power Accountable

Statement Before The
Friday, February 12, 2021
10:00 AM
Via Videoconference, Conference Room 309

in consideration of
HB 144
RELATING TO ELECTIONEERING COMMUNICATIONS.

Chair McKELVEY, Vice Chair WILDBERGER, and Members of the House Government Reform Committee

Common Cause Hawaii supports HB 144, with suggested amendments. HB 144 increases the monetary threshold that requires disclosure of electioneering communications, requires that disclosures of electioneering communications occur on the date the electioneering communications are publicly distributed, classifies election advertisements sent by mail at any postal rate, and election advertisements that are expenditures of an organization, as electioneering communications.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to reforming government and strengthening democracy through improving our campaign finance system with laws that amplify the voices of everyday Americans.

HB 144 provides, at page 1, lines 4-8, that each person who makes an expenditure for electioneering communications in an aggregate amount of more than \$5,000 (increased from \$2,000) during any calendar year shall file with the commission a statement of information within twenty-four hours of each disclosure date as provided in Hawaii Revised Statutes (HRS) § 11-341. Common Cause Hawaii is concerned that raising the amount from \$2,000 to \$5,000 to trigger electioneering communication disclosure will result in smaller races, such as some county council races, not meeting the \$5,000 threshold to file the statement of information. Common Cause Hawaii suggests raising the limit from \$2,000 to \$3,000 for transparency to ensure that smaller, local races will also be subject to HRS § 11-341.

HB 144 also amends the definition of “disclosure date” at page 3, lines 19-21, and page 4, lines 1-8 to the “date on which subsequent electioneering communication is publicly distributed” versus the original definition of “has made expenditures” on page 3, lines 20-21. Common Cause Hawaii is concerned with definitional change to “disclosure date”. This is because an electioneering communication may be contracted / purchased and then subsequently and serially distributed at a later time. If the disclosure date did not include dates on which a contract is executed, i.e., “has made expenditures”, a person could conceivably make their contracts for electioneering communications payable after the election and wait to disclose that spending, depriving the public of that information until it’s too late. Additionally, changing to “publicly distributed” could make administration more difficult and possibly lead to less timely disclosure in the last few weeks or days leading up to an election. Everyone who had previously been reporting their contracts for electioneering communications well ahead of the election, when their contracts were executed, would now be reporting all of those in together in that short period right before the election.

Transparency is better served if an electioneering communication statement of information is timely filed when contracted versus distributed. Common Cause Hawaii suggests keeping the original definition of “disclosure date”.

Thank you for the opportunity to testify in support of HB 144 with suggested amendments. If you have further questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii

TO: Members of the Government Reform

FROM: Natalie Iwasa, CPA, CFE
808-395-3233

HEARING: 10:00 a.m. Friday, February 12, 2021

SUBJECT: HB 144, Electioneering Communications - **SUPPORT**

Aloha Chair McKelvey and Committee Members,

Thank you for allowing me the opportunity to provide testimony on HB 144, which would increase the total amount of expenditures that triggers electioneering communications reporting and revise certain other provisions of the electioneering law.

The bill would increase the aggregate amount of electioneering communications from \$2,000 to \$5,000 before electioneering statements would be required. Under current law, small candidate committees may have a more difficult time staying in compliance, because they have fewer resources. The increase wouldn't make much difference with respect to information that is available to the public, as even \$5,000 isn't very much these days considering candidates are spending tens to hundreds of thousands of dollars on ads. I absolutely support this change.

This bill also includes all mailers if they meet the other parts of the definition of "electioneering communication." Under current law, a mailer with a stamp or Every Door Direct Mail is not considered electioneering. This is confusing. I therefore also support this change.

Please **vote "yes"** on this bill.