



STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION

235 SOUTH BERETANIA STREET, ROOM 300
HONOLULU, HAWAII 96813

March 17, 2022

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
Campaign Spending Commission KEI

SUBJECT: **Testimony on S.B. No. 665, SD 1, Relating to Violations of Campaign Finance Law**

Wednesday, March 23, 2022
9:30 a.m., Conference Room 309 & via Videoconference

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

This measure amends Hawaii Revised Statutes (“HRS”) §11-391, concerning advertising disclaimers, by making any person who knowingly or intentionally provides false information about the name or address of the person paying for the advertisement guilty of a class C felony. The measure amends HRS §11-411 to permit the Commission to refer a complaint for prosecution in addition to an administrative determination. The measure also amends HRS §11-412(c) by increasing the disqualification from holding elective public office for a campaign-finance violation conviction from four to ten years.

An advertisement with a false disclaimer was published in the 2020 elections. The Commission believes that making the false reporting of the name and address of the person paying for the advertisement a felony will deter the conduct. The Commission also supports the ability to assess a civil fine for certain violations of law and refer the same matter for prosecution. Presently, the Commission has to choose between proceeding to an administrative determination or a referral of a complaint for prosecution. The Commission will retain civil jurisdiction of a referral should prosecution be declined. But at least in one case, prosecution was declined several years after the referral was made. Thus, when the matter came back for administrative determination, the Commission had new members who did not hear the complaint when the referral was originally made.

Statement Before The
HOUSE COMMITTEE ON GOVERNMENT REFORM
Wednesday, March 23, 2022
9:30 AM
Via Videoconference and Conference Room 309

in consideration of
SB 665, SD1
RELATING TO CAMPAIGN FINANCE.

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

Common Cause Hawaii provides comments with concerns regarding SB 665, SD1, which (1) establishes that knowingly or intentionally providing false information concerning the name or address of a person paying for a campaign advertisement is a class C felony, (2) repeals certain exemptions from criminal prosecution for campaign finance violations, (3) repeals certain state of mind prerequisites with respect to the campaign spending commission's referral of complaints for criminal prosecution, (4) increases from four years to ten years the period from which a person convicted for a criminal violation of campaign finance law shall be disqualified from holding elective office, and (5) establishes that the exercise of enforcement authority by the attorney general or prosecuting attorney may be the basis for prosecution of campaign finance law violations.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to reforming government and strengthening our representative democracy through improving our campaign finance system with laws that amplify the voices of everyday people by requiring strong disclosures and making sure everyone plays by the same commonsense rules.

Common Cause Hawaii is concerned with the unintended consequences of SB 665, SD1, which provides at page 2, lines 3-8, that a fine will be assessed by the Campaign Spending Commission, not to "exceed \$25 for each advertisement that lacks the information required by this section or [~~provides prohibited information,~~] contains false information about the time, place, or means of voting, and shall not exceed an aggregate amount of \$5,000." Information when initially distributed about the time, place, or means of voting may be accurate and then may no longer be accurate and should not be penalized. For example, in 2020, county elections divisions added drop box locations between the primary and general elections, so initially distributed information regarding locations of places of deposit would no longer be totally accurate. There should be some requirement of knowingly or intentionally providing false information about the time, place, or means of voting to be fined.

Thank you for the opportunity to provide cautioning comments regarding SB 665, SD1. If you have further questions of me, please contact me at sma@commoncause.org.

Very respectfully yours,

Sandy Ma
Executive Director, Common Cause Hawaii

SB-665-SD-1

Submitted on: 3/17/2022 7:31:27 PM

Testimony for GVR on 3/23/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Testify
Jennifer Azuma Chrupaluk	Individual	Support	Written Testimony Only

Comments:

Thank you