



**TESTIMONY OF  
THE DEPARTMENT OF THE ATTORNEY GENERAL  
THIRTY-FIRST LEGISLATURE, 2022**

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**ON THE FOLLOWING MEASURE:**

S.B. NO. 665, RELATING TO VIOLATIONS OF CAMPAIGN FINANCE LAW.

**BEFORE THE:**

SENATE COMMITTEE ON JUDICIARY

**DATE:** Tuesday, January 25, 2022      **TIME:** 9:30 a.m.

**LOCATION:** State Capitol, Via Videoconference

**TESTIFIER(S):** Holly T. Shikada, Attorney General, or  
Candace Park, Deputy Attorney General

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Chair Rhoads and Members of the Committee:

The Department of the Attorney General provides the following comments regarding section 1 of this bill.

Section 1 of this bill amends section 11-391, Hawaii Revised Statutes (HRS), by adding a new subsection (c): "Any person who knowingly or intentionally provides false information concerning the name or address of the person paying for an advertisement that is subject to the requirements of this section shall be guilty of a class C felony. Section 11-412 shall apply to this subsection."

Subsection (b) of section 11-391, HRS, provides: "The fine for violation of this section, if assessed by the commission, shall not exceed \$25 for each advertisement that lacks the information required by this section or provides prohibited information, and shall not exceed an aggregate amount of \$5,000." The phrase "prohibited information" is not defined; however, it appears to relate back to paragraph (3) of section 11-391(a): "false information about the time, date, place, or means of voting."

In order to avoid an ambiguity between prohibited or false information that results in a violation, and false information that results in a class C felony, we recommend amending subsection (b) by replacing "provides prohibited information" with "contains false information about the time, date, place, or means of voting."

We respectfully request that section 1 be amended to address this concern.



**STATE OF HAWAII**  
**CAMPAIGN SPENDING COMMISSION**

235 SOUTH BERETANIA STREET, ROOM 300  
HONOLULU, HAWAII 96813

January 24, 2022

TO: The Honorable Karl Rhoads, Chair  
Senate Committee on Judiciary

The Honorable Jarrett Keohokalole, Vice Chair  
Senate Committee on Judiciary

Members of the Senate Committee on Judiciary

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

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

Tuesday, January 25, 2022  
09:30 a.m., 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 and removes the need for a finding of criminal intent for a referral for prosecution. 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  
**SENATE COMMITTEE ON JUDICIARY**

Tuesday, January 25, 2022

9:30 AM

Via Videoconference

in consideration of

**SB 665****RELATING TO CAMPAIGN FINANCE.**

Chair RHOADS, Vice Chair KEOHOKALOLE, and Members of the Senate Judiciary Committee

Common Cause Hawaii supports in part and opposes in part SB 665, 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 Americans by requiring strong disclosures and making sure everyone plays by the same commonsense rules.

Common Cause Hawaii supports SB 665 which subjects those to criminal penalties who intentionally provide false information about which person is paying for an advertisement under Hawaii Revised Statutes (HRS) § 11-391. Election advertisements, with their abilities to influence the public's vote, need to disclose truthfully and honestly the person who is underwriting the advertisement for full transparency in our electoral process. Such information cannot be knowingly or intentionally omitted for a fair election.

Common Cause Hawaii opposes that portion of Section 2 of SB 665 at page 3, lines 1-6, which would permit the Campaign Spending Commission to refer a complaint to the attorney general or county prosecutor without a belief that the respondent may have recklessly knowingly or intentionally committed a violation. For there to be adequate notice to the public, there needs to be some minimum threshold of misconduct before a criminal referral may be made.

Thank you for the opportunity to testify, supporting in part and opposing in part, on SB 665. If you have further questions of me, please contact me at [sma@commoncause.org](mailto:sma@commoncause.org).

Very respectfully yours,

Sandy Ma  
Executive Director, Common Cause Hawaii



Committee on Judiciary  
Chair Rhoads, Vice Chair Keohokalole

Tuesday, January 25, 2022, 9:30 am. Videoconference  
SB665 — RELATING TO VIOLATIONS OF CAMPAIGN FINANCE LAW

TESTIMONY

Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair Rhoads, Vice Chair Keohokalole, and Committee Members:

**The League of Women Voters of Hawaii supports Sections 1, 2 and 3 of SB665, described below. We take no position on Section 4.**

In order to achieve the goals of campaign finance regulation, the League of Women Voters supports enhanced enforcement of campaign finance laws.

One way voters can learn about and evaluate candidates for public office, is to find out what individuals or organization are supporting the candidate. Thus our support for Section 1: In Section 1, SB665 would classify as a Class C felony, the violation of campaign finance law by intentionally providing false information on the name/address of payor(s) for a campaign advertisement as defined in §11-391 Advertisements . This enhanced classification would, we believe, be an effective deterrent to deceiving the public about what people or organizations are financially supporting a candidate.

Section 2 is “housekeeping” to ensure consistency .

Section 3 corrects the current implication that the basis for referring a violation to the Attorney General or County Prosecutor should depend on a mental state of belief on the part of the members of the Campaign Spending Commission. Surely a serious action

such as referral to those legal officers, with the implication that the complaint may be investigated as potentially criminal, should not be based on the unknowable and subjective mental beliefs of Commissioners. We support removing that language from the current statute.

Thank you for the opportunity to provide testimony.