

A Bill for an Act Relating to Campaign Contributions and Expenditures.

Be it Enacted by the Legislature of the State of Hawaii:

SECTION 1. Subpart B, Election Campaign Contributions and Expenditures, of chapter 11, part XII, Hawaii Revised Statutes, is amended in the following respects:

(a) Section 11-191, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-191 Definitions. When used in this subpart:

(1) “Advertisement” means:

(A) Any communication exclusive of bumper stickers or other sundry items paid for by or on behalf of a candidate which identifies a candidate directly or by implication or which advocates or supports the nomination for election, or election, of the candidate or advocates or supports his defeat; and

(B) Any communication exclusive of bumper stickers or other sundry items paid for by or on behalf of a committee which identifies an issue or question which appears or is reasonably certain to appear on the ballot at the next applicable election or which advocates or supports the passage or defeat of the question or issue.

(2) “Campaign treasurer” means a person appointed under section 11-198, and, unless expressly indicated otherwise, includes deputy campaign treasurers.

(3) “Candidate” means an individual who seeks nomination for election, or election, to office. An individual is a candidate if he does any of the following:

(A) Files nomination papers for an office for himself with the county clerk’s office or with the chief election officer’s office, whichever is applicable; or

(B) Receives contributions in an aggregate amount of more than \$100, or makes or incurs any expenditure to bring about his nomination for election, or election, to office provided that in no event shall a person be deemed a candidate by reason of the provisions set forth in subparagraphs (B) and (C) of this paragraph prior to January 1 of the year that person runs for election; or

(C) Gives his consent for any other person to receive contributions or make expenditures to aid his nomination for election, or election, to office.

(4) “Commission” means the campaign spending commission.

(5) “Committee” means:

(A) Any person who accepts a contribution or makes an expenditure for or against any candidate, person seeking nomination for election, or election, to office, or party, with or without the authorization of the candidate, person, or party, or who accepts a con-

- tribution or makes an expenditure for or against any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election;
- (B) Any person who raises or holds money or anything of value and who subsequently contributes the money or thing of value to, or makes expenditures in behalf of a candidate, person, or party; provided that the term "committee" shall not include any person making a contribution or expenditure of his own funds or thing of value, which he originally acquired for his own use and not for the purpose of evading any provision of this subpart;
- (6) "Contribution" means:
- (A) A gift, subscription, loan, advance, deposit of money or anything of value, or cancellation of a debt or legal obligation and includes the purchase of tickets to testimonial or fund raising affairs, for the purpose of:
- (i) Influencing the nomination for election, or election, of any person to office; or
 - (ii) Influencing the outcome of any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election; or
 - (iii) Use by any party for the purposes set out in clause (i) or (ii) above;
- (B) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee without charge or at an unreasonably low charge; or
- (C) A contract, promise, or agreement to make a contribution; provided that notwithstanding subparagraphs (A), (B), and (C) of this paragraph, the term shall not include services or portions thereof voluntarily provided without reasonable compensation by individuals to or in behalf of a candidate or committee; or
- (D) Notwithstanding the above, a candidate's expenditure of his own funds in the pursuit of his campaign shall not be a contribution for the purpose of this subpart.
- (7) "Election" means any election for office or for determining a question or issue provided by law or ordinance.
- (8) "Expenditure" means:
- (A) Any purchase or transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, or payment incurred or made, or the use or consumption of a non-monetary contribution for the purpose of:
- (i) Influencing the nomination for election, or election, of any person seeking nomination for election, or election, to office whether or not the person has filed his nomination papers; or
 - (ii) Influencing the outcome of any question or issue which appears or is reasonably certain to appear on the ballot at the

- next applicable election; or
- (iii) Use by any party for the purposes set out in clause (i) or (ii) above;
 - (B) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee for any of the purposes mentioned in clause (i), (ii), or (iii) of this paragraph; or
 - (C) The expenditure by a candidate of his own funds for the purposes set out in clauses (i), (ii), and (iii) above.
- (9) "House bulletin" means a communication sponsored by any person in the regular course of publication for limited distribution primarily to its employees or members.
 - (10) "Newspaper" means a publication of general distribution in the State issued once or more per month which is written and published in the State.
 - (11) "Office" means any elective public or constitutional office excluding federal elective offices.
 - (12) "Person" means an individual, partnership, committee, association, corporation, or labor union and its auxiliary committees."
 - (b) Section 11-192, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-192 Campaign spending commission. There is established a campaign spending commission, consisting of five members appointed by the governor as follows:

The judicial council shall select a panel of ten persons, consisting of five persons from the membership of each of the two political parties for which the greatest number of voters cast party ballots in the last preceding primary election. From this panel the governor shall appoint two members from each political party and a chairman. Any vacancies in the commission shall be filled by the governor with a member from the panel; provided the replacement member is from the same political party as the member being replaced; and provided further that the party is then one of the two political parties as determined above; otherwise, the replacement member shall be from one of the two parties not represented on the commission.

The judicial council shall meet and expeditiously select additional persons for the panel whenever the number of the eligible panel members falls below five, or whenever a political party, being one of the two parties for which the greatest number of voters cast party ballots in the last primary election, is not represented. In either event, the judicial council shall select additional panel members so that there will be five from each of the two parties. A person shall no longer remain eligible to be on the panel when he is not from one of the two parties for which the greater number of voters cast party ballots in the last preceding primary election. The requirement of being from the same party is not applicable to the replacement chairman.

Notwithstanding section 26-34, these appointments shall not be subject to senatorial confirmation. The term of the members shall be four years, ex-

cept that the terms of the initial members shall be two years for two members, three years for two other members, and four years for the chairman.

The members of the commission shall serve without compensation but they shall be reimbursed for reasonable expenses, including travel expenses, incurred in the discharge of their duties. For administrative purposes the commission shall be in the office of the lieutenant governor."

(c) Section 11-193, Hawaii Revised Statutes, is repealed.

(d) Section 11-194, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-194 Duties of the chief election officer; commission.

(a) The chief election officer's principal duty is to regulate the election process, and under this subpart his duties are:

- (1) To develop and adopt reporting forms required by this subpart;
- (2) To adopt and publish a manual for all candidates and committees, describing the requirements of this subpart B, including uniform and simple methods of recordkeeping;
- (3) To preserve all reports required by this subpart for at least five years from the date of receipt;
- (4) To permit the inspection, copying, or duplicating of any report required by this subpart pursuant to rules adopted by the commission; provided that no information or copies from the reports shall be sold or used by any person for the purpose of soliciting contributions or for any commercial purpose.

(b) The commission's principal duty is to supervise campaign contributions and expenditures, and under this subpart its duties are:

- (1) To ascertain whether any candidate, committee, or party has failed to file a report required by this subpart or has filed a substantially defective or deficient report, and to notify the persons that their failure to file or filing of a substantially defective or deficient report must be corrected and explained, the correction or explanation to be submitted in writing to the commission within a reasonable time after the notification of the failure to file or deficiency. The commission shall make available a list of candidates, committees, and parties who have failed to correct their deficiency within the time allowed by the commission. Failure to respond to the notification shall constitute a violation of this subpart.
- (2) To hold public hearings;
- (3) To investigate and hold hearings for receiving evidence of any violations;
- (4) To adopt a code of fair campaign practices;
- (5) To establish rules pursuant to chapter 91;
- (6) To request the initiation of prosecution for the violation of this subpart pursuant to section 11-213;
- (7) To suggest accounting methods for candidates, parties, and committees, as the commission may deem advisable, in connection with reports and records required by this subpart; and
- (8) To employ or contract, without regard to chapters 76 and 77, and, at

pleasure, to dismiss persons it finds necessary for the performance of its functions and to fix their compensation.”

(e) Section 11-195, Hawaii Revised Statutes, is repealed.

(f) Section 11-196, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-195 Filing of reports, generally.** (a) All reports required to be filed under this subpart by a candidate or committees supporting a candidate with his consent shall be certified by the candidate. All reports required to be filed under this subpart by a party or committee which supports more than one candidate shall be certified by the party or committee treasurer, or the deputy treasurer, or the chairman thereof, in that order. All reports required to be filed shall be open for public inspection.

(b) All reports required by this subpart shall be filed as follows:

The original and one copy shall be filed at the commission office. In the case of counties having less than 100,000 voters, the filing shall be accomplished by filing an original and two copies of the required report with the clerk of the county in which the candidate resides. The clerk shall then immediately mail the necessary copies to the commission by certified mail.

(c) The commission or county clerk shall give each person filing a report a receipt showing the type of report and date and time of filing.

(d) The reports filed with the county clerk’s office shall be preserved by that office for five years.

(e) All reports required to be filed shall at all times be available to the chief election officer.”

(g) Subpart B of chapter 11, part XII, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

“**Sec. 11-196 Registration.** Each candidate, committee, and party shall file an organizational report not later than 4:30 p.m. on the earliest of the following applicable days:

- (1) On or before the day of filing for nomination or election;
- (2) At least forty-five days before the primary or special primary election;
- (3) At least forty-five days before the general, special general, or special election; or
- (4) By the tenth day after:
 - (A) Receiving any contributions in an aggregate amount of more than \$100 or
 - (B) Making or incurring any expenditure which is reportable under section 11-207 or 11-208.”

(h) Section 11-197, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-197 Organizational reports.** (a) The organizational report shall include:

- (1) The name, address, office sought when known, and party affiliation of each candidate or individual whom the committee or party is supporting and the name and address of the committee or party;
- (2) The names and addresses of the campaign treasurer and deputies;

- (3) The names and addresses of the campaign chairman and deputy campaign chairman;
 - (4) A list of all banks, safety deposit boxes, or other depositories used and the applicable account number;
 - (5) The amount and date of deposit of the contribution and the name and address of each individual donor who has contributed an aggregate amount of more than \$100 since the last election applicable to the office being sought or in which the issue or question was on the ballot; provided that this paragraph shall not apply to contributions made prior to January 1, 1974; and
 - (6) In the case of a report by a committee or party supporting or opposing a ballot question or issue, all of the information described in paragraphs (2) to (5) and a description of the question or issue.
- (b) Any change in information submitted in the organizational report, other than paragraph (5) above, shall be reported not later than 4:30 p.m. on the tenth calendar day after the change or when the candidate, committee, party, or campaign treasurer becomes aware of the change."

(i) Subpart B of chapter 11, part XII, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

"Sec. 11-197.1 Designated central committee. Each candidate for a statewide or county office who is supported by more than one committee shall designate a central committee which shall be responsible for aggregating the total contributions and expenditures of all committees directly associated with the candidate and for filing composite reports indicating this information on the dates set by sections 11-207 and 11-208."

(j) Section 11-198, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-198 Campaign treasurer. (a) Every committee, party, and candidate shall appoint a campaign treasurer on or before the day for filing an organizational report. Up to five deputy campaign treasurers may be appointed. A candidate may appoint himself as campaign treasurer.

(b) A campaign treasurer may be removed at any time. In case of death, resignation, or removal of the campaign treasurer, the committee, party, or candidate shall promptly appoint a successor. During the period the office of campaign treasurer is vacant, the candidate, committee chairman, or party chairman, whichever is applicable, shall serve as campaign treasurer.

(c) Each campaign treasurer shall be authorized to receive contributions or make expenditures on behalf of the candidate, committee, or party appointing him."

(k) Section 11-199, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-199 Campaign contributions, generally. (a) All monetary contributions shall be promptly deposited in a financial depository duly authorized to do business in the State of Hawaii, such as a bank, savings and loan institution, industrial loan company, or similar financial institution, in the name of the candidate, committee, or party, whichever is applicable.

(b) Each candidate, committee, or party shall establish and maintain an

itemized record showing the amount of each monetary contribution, the description and value of each non-monetary contribution, and the name and address of each donor making a contribution of more than \$10 in value.

(c) Each candidate and campaign treasurer shall report the amount and date of deposit of each contribution and the name and address of each donor who makes a contribution or contributions whose aggregate value is more than \$100.

(d) No candidate, committee, or party may accept a contribution of more than \$250 in cash from a single person without issuing a receipt to the donor and keeping a record of the transaction.

(e) Each committee and party shall disclose the original source of all earmarked funds, the ultimate recipient of the earmarked funds, and the fact that the funds are earmarked.

(f) For the purposes of this section, "earmarked funds" means contributions received by a committee or party on the condition that the funds be contributed to or expended only on certain candidates, issues, or questions."

(l) Section 11-200, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-200 Campaign contributions, restrictions against transfer. (a)

A candidate, campaign treasurer, or committee shall not receive any contributions, make any expenditures, or receive or make any transfer of money or anything of value:

(1) For any purpose other than those directly related:

(A) In the case of the candidate, to his own campaign, or

(B) In the case of a campaign treasurer or committee, to the campaign of the candidate, question, or issue with which they are directly associated; or

(2) To support the campaigns of candidates other than the candidate, for whom the funds were collected or with whom the campaign treasurer or committee is directly associated; or

(3) To campaign against any other candidate not directly opposing the candidate for whom the funds were collected or with whom the campaign treasurer or committee is directly associated;

(4) Provided that a candidate, campaign treasurer, or committee may purchase from its campaign fund not more than two tickets for each testimonial or fund raising affair as defined in sections 11-203 and 11-203.1, respectively, of this subpart held by another candidate, committee, or party.

(b) This section shall not be construed to prohibit a party from supporting more than one candidate, or to prohibit joint expenditure by two or more candidates seeking election to multiple offices from the same district whether the expenditures are equally or unequally incurred among such candidates; provided that the allocation of expenditures between the candidates is based upon reasonable objective standards. The party or candidates, whichever is applicable, shall make the initial allocation between candidates. If the allocation is disallowed by the commission, and the allocation of expenditures is not corrected as prescribed by the commission within the time allowed by the com-

mission, then the amount of the allocation found to be unreasonable by the commission shall be presumed to be a transfer of funds in violation of this section.”

(m) Section 11-201, Hawaii Revised Statutes, is repealed.

(n) Section 11-202, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-202 Anonymous contributions; unlawful. (a) No person shall make a contribution of his own money or property or money of another person to any candidate, party, or committee in connection with a nomination for election, or election, anonymously; nor shall any candidate, party, or committee knowingly receive, accept, or retain the contribution or enter or cause the same to be entered in its accounts as an anonymous contribution or in another name than that of the person by whom it was actually furnished.

(b) Any anonymous contribution received by a candidate, party, or committee shall not be used or expended, but shall be returned to the donor. If the donor cannot be identified, the contribution shall escheat to the State in the case of a state election and to the county in the case of a county election.

(c) This section shall not apply to amounts that aggregate less than \$250 when obtained through multiple contributions made by ten or more persons at the same event. Each such aggregate contribution shall be reported accompanied by a description of the means, method, place, and date of receipt.”

(o) Subpart B of chapter 11, part XII, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

“Sec. 11-202.1 False name. No person shall make a contribution of his own money or property or money or property of another person to any candidate, party, or committee in connection with a nomination for election, or election, in any other name than the name of the person owning the money or who supplied the money or property.

All contributions made in the name of a person other than the true or established name of the actual owner of the money or property shall escheat to the State in the case of a state election or to the county in the case of a county election.”

(p) Section 11-203, Hawaii Revised Statutes, is amended to read as follows:

“Sec. 11-203 Testimonial affairs and coffee hours. (a) As used in this section:

- (1) “Testimonial affair” means any function held for the benefit of a person and designed to raise funds for political purposes for which the total cost for attending the affair is more than \$15 per person; and
- (2) “Coffee hour” means any function held for the benefit of a person for a political purpose but not designed to raise funds for a political purpose and for which there is no charge for attending.

(b) No person or a committee directly associated with the person shall hold more than one testimonial affair until after an election in which that person was either elected or defeated unless that person seeks election to state-

wide office, in which case he or his directly associated committee may hold no more than one testimonial affair in each county. An additional testimonial affair may be held within six months after a general, special general, or special election, in the case of a candidate or committee directly associated with that person having a deficit. No testimonial affair may be held unless a notice of intent to hold the affair is filed by the person in charge of the affair with the commission prior to the date of the affair setting forth the name and address of the person in charge, the charge per person, the date, hour, and place of the affair and whether contributions will be solicited at the affair and method thereof. Testimonial affairs sponsored by a party for a political purpose for the general benefit of the party are exempt from the limits of this subsection.

(c) The following expenditures incident to a testimonial affair or coffee hour held during the times specified in section 11-206 shall not be considered expenditures within the limitations set by that section; provided that the portion of the expenditures exceeding \$25 for the office of state representative and \$50 for all other offices for each coffee hour shall not be exempt from the limitations of section 11-206:

- (1) The cost of food and beverages reasonably purchased or contributed for the affair;
 - (2) Rent and utilities for the premises where the affair is held;
 - (3) The cost of printing tickets and invitations for the affair;
 - (4) The cost of postage, envelopes, and mailing service for the invitations to the affair, replies to the invitations and tickets for the affair, provided that no political literature other than the invitations and tickets shall be included in the mail;
 - (5) The amount paid for guest speakers and entertainment; and
 - (6) The cost of plates, cups, napkins, eating utensils, decorations, catering services, leis, and other reasonable expenses actually expended and necessary for these affairs.
- (d) The number of functions held for the benefit of a person designed to raise funds for political purposes for which the total cost for attending the affair is \$15 or less per person shall not be limited except:
- (1) For statewide offices, no person may hold more than two such functions during the times specified in section 11-206 for which the expenditures listed in subsection (c) are exempt from the limitations set by section 11-206 in each county.
 - (2) For all other offices, a person may hold either two such functions or one testimonial affair in the district during the times specified in section 11-206 for which the expenditures listed in subsection (c) are exempt from the limitations set by section 11-206."

(g) Subpart B of chapter 11, part XII, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

"Sec. 11-203.1 Cost of fund raising. The cost of food or other items purchased or contributed for sale, such as a huli huli chicken sale, sweet bread sale, plant sale, or other similar type of fund raising activity as may be approved by the commission for the purpose of this section, by a candidate, committee, or party for a political fund raising purpose and the reasonable ex-

penses in connection with the sale, shall be considered reportable expenditures not chargeable against the limitations set by section 11-206.”

(r) Section 11-204, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-204 Campaign expenditures: authority required.** (a) A candidate may draw on the campaign treasurer for his political expenditures for postage, telegrams, telephone calls, stationery, expressage, travel, meals, and lodging. The candidate shall make a detailed accounting of his political expenditures and the accounting shall be made a part of the reports required in sections 11-207 and 11-208. The account shall state the amount and purpose of the expenditures and other information required by the commission and shall be signed and certified by the campaign treasurer.

(b) No funds shall be withdrawn or paid from a campaign depository except upon the written authorization of the campaign treasurer.

(c) No expenditure by or on behalf of a candidate shall be made or incurred by any committee without specific written authorization of the candidate or his authorized representative. Every expenditure so authorized and made or incurred shall be attributed to the candidate for whom the expenditure is made for the purpose of imposing the expenditure limitations imposed by section 11-206.”

(s) Section 11-205, Hawaii Revised Statutes, is repealed.

(t) Section 11-206, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-206 Campaign expenditures: limits as to amounts.** (a) The total expenditures for candidates, inclusive of all expenditures made or incurred by the candidate himself and all campaign treasurers and committees in his behalf, shall not exceed in the aggregate the following: the amounts expressed respectively as the product of the number of voters in the last preceding general election registered to vote for the office or the number of voters who were registered and would have been entitled to vote for the office had it been on the ballot in the last preceding general election and the rates herein indicated, taking into consideration any intervening reapportionment; or the sum of \$2,000 for each period, whichever is greater:

(1) From January 1 of the year of a general election through the day of the primary election, or nine months prior to a special primary or special election through the day of special primary or special election:

(A) For the office of governor—50 cents;

(B) For the office of lieutenant governor—40 cents;

(C) For the offices of mayors and prosecuting attorneys—40 cents

(D) For the offices of state senators and county council members—25 cents;

(E) For the offices of state representatives—25 cents;

(F) For the office of school board and all other offices—12.5 cents; and

(2) From the day after a primary or special primary election through the day of the general or special general election:

(A) For the office of governor—50 cents;

- (B) For the office of lieutenant governor—25 cents;
- (C) For the offices of mayors and prosecuting attorneys—40 cents;
- (D) For the offices of state senators and county council members—25 cents;
- (E) For the offices of state representatives—25 cents;
- (F) For the office of school board and all other offices—12.5 cents;

and

(3) In no event shall any portion of the amount allowable under subsections (a) (1) and (a) (2) be shifted from one period to another.

(b) From January 1 of the year of a general election, special general election, or special election through the day of the general, special general, or special election, the total expenditures for committees supporting or opposing ballot questions or issues shall not exceed in the aggregate the amount expressed as the product of the number of voters in the last preceding general election registered to vote in the applicable jurisdiction and the rate of 25 cents.

(c) The expenditure limits in this section shall be increased for each year beginning with 1975 by the percentage, if any, by which the Consumer Price Index for the preceding twelve months increased over the index for the year 1973.

(d) If any candidate for one office withdraws from his campaign for that office and becomes a candidate for a new office the amounts expended on the campaign for the first office shall be applied toward the expenditure limits applicable to the new office. If the amounts already expended in seeking the first office exceed the expenditure limit for the new office, the candidate shall not incur further expenses, however, the excess prior expenditure shall not be considered a violation of this section.

(e) For the purposes of this section, an expenditure shall be deemed to be made or incurred when the services are rendered or the product is delivered. Services rendered or products delivered for use during a time period covered by this section shall be deemed delivered or rendered during the period or periods of use, provided that these expenditures may be reasonably allocated between periods in accordance with the time the services or products are actually used."

(u) Subpart B of chapter 11, part XII, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

"Sec. 11-206.1 House bulletins. The costs of preparing, printing, and circulating house bulletins and the writings, drawings, and photographs contained therein, except for paid political advertisements, shall be exempt from the provisions of this subpart."

(v) Section 11-207, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-207 Preliminary reports. (a) Each candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall file a preliminary report with the commission on forms provided by the commission not later than 4:30 p.m. of the tenth calendar day prior to each election. The report shall be certified pursuant to section 11-195 and shall con-

tain the following information which is current through the fifteenth calendar day prior to the election:

- (1) The aggregate sum of all contributions received;
 - (2) The amount and date of deposit of the contribution and the name and address of each donor who contributes an aggregate of more than \$100;
 - (3) All expenditures made, incurred, or authorized by or for a candidate including the name and address of each payee and the amount, date, and purpose of each expenditure; and
 - (4) A current statement of the balance on hand or deficit.
- (b) Notwithstanding this section, a candidate or committee which makes expenditures of \$500 or less may file a short form report with the commission in lieu of the reports required by this section and section 11-208.”
- (w) Section 11-208, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-208 Final and supplemental reports.** (a) Each candidate, whether or not successful in a primary or special primary election, authorized person in the case of a party, or campaign treasurer in the case of a committee directly associated with a candidate, shall file a final primary report not later than 4:30 p.m. on the twentieth day after the primary or special primary election certified pursuant to section 11-195. The report shall include:

- (1) A statement of the total contributions received;
- (2) The amount and date of deposit of the contribution and the name and address of each donor who contributes an aggregate of more than \$100;
- (3) A statement of all expenditures made or incurred by or for a candidate including the name of each payee and the amount, date, and purpose of each expenditure; and
- (4) A statement of the balance on hand or deficit.

(b) Each candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall file a final general report with the commission not later than 4:30 p.m. on the twentieth day after a general, special general, or special election certified pursuant to section 11-195 and reporting all items prescribed in subsection (a). A candidate who is unsuccessful in a primary or special primary election need not file a final general report.

(c) Deficit. In the event of a deficit, the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall, every three months until the deficit is eliminated, file supplemental reports reporting all items prescribed in subsection (a). The first report shall be due not later than 4:30 p.m. on the fifth day after the last day of the election year.

(d) Surplus. In the event of a surplus, the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall:

- (1) Maintain the cash surplus in a financial depository; and
- (2) Every six months, until he becomes a candidate again, file supplemental reports reporting all items prescribed in subsection (a).

The first report shall be due not later than 4:30 p.m. on the fifth day after the last day of the election year.

(e) A candidate, party, or committee who receives no contributions or makes no expenditures shall nevertheless file preliminary, final, and supplemental reports as required by law.”

(x) Section 11-209, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-209 Disposition of funds.** (a) All candidates who withdraw or cease to be candidates or committees directly associated with these candidates, individuals who receive contributions but fail to file for nomination, or committees or parties which discontinue their activities covered in this subpart, shall return any residual contributions proportionately to the donors if their identities are known. This subsection does not apply to elected officials or candidates who failed to be nominated or elected.

(b) If no donors are found, the residual contributions shall be contributed to the campaign fund of any candidate, or to any party, charity, or non-profit organization or escheated to the State in the case of state offices or to the respective county in the case of county offices.

(c) Upon disposition, the candidate or campaign treasurer shall file a report with the commission reporting the amounts distributed under this section and the manner of disposition.”

(y) Section 11-210, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-210 Advertising.** (a) No person shall cause or submit any advertisement in support for a candidate or against a candidate’s opponent, to be published, broadcast, televised or otherwise circulated and distributed except under the following conditions:

(1) The advertisement shall contain a notice in a prominent location that the literature or advertisement is published, broadcast, televised, or circulated with the approval and authority of the candidate, provided that in the event that the literature or advertisement is paid for by a candidate or committee directly associated with a candidate, the notice of approval and authority need not be included; or

(2) The advertisement shall contain a notice in a prominent location that the literature or advertisement is published, broadcast, televised, or circulated without the approval and authority of the candidate.

(b) All advertisement mentioned in subsection (a) above shall contain the name and address of the candidate, committee, or party paying for same.”

(z) Subpart B of chapter 11, part XII, Hawaii Revised Statutes, is amended by adding a new section to be designated and to read as follows:

“**Sec. 11-211 Complaints, investigation, and notice.** (a) Complaints of violations of this subpart against any person shall be filed with the commission. The complaint shall be in writing and shall be signed under oath by the complainant. Complaints initiated by the commission shall be in writing and signed by the chairman.

(b) The commission shall give notice of receipt of the complaint together with a copy of the complaint to the person cited and shall afford him an opportunity to explain or otherwise respond to the complaint. The commission may also cause an investigation to be made of the complaint.

(c) Upon hearing the response of the person cited, if he elects to respond to the complaint, and upon completion of any investigation, the commission shall make a prompt determination as to whether probable cause exists that a violation has been committed.

(1) Any person who appears before the commission shall have all of the rights, privileges, and responsibilities of a witness appearing before the courts of this State. All witnesses summoned before the commission shall receive reimbursement as paid in like circumstances in the courts of this State. Any person whose name is mentioned during a proceeding of the commission and who may be adversely affected thereby, may appear personally before the commission on his own behalf or file a written statement for incorporation into the record of the proceeding.

(2) The commission shall cause a record to be made of all proceedings pursuant to this subsection. At the conclusion of proceedings concerning an alleged violation, the commission shall immediately begin deliberations on the evidence and then proceed to determine by majority vote of the members whether probable cause exists that a violation has been committed.

(d) Until the determination of probable cause by the commission, all proceedings, including the filing of the complaint, investigation, and hearing shall be confidential unless the person complained of requests an open session. In the event the commission shall determine that probable cause does not exist, then the complaint shall be dismissed and the entire records of the proceedings shall be kept confidential at the option of the person complained of.

(e) The commission shall give written notice to the person complained of and to the complainant as to whether probable cause of a violation exists or whether the complaint has been dismissed.

(f) In the event a determination is made that probable cause of a wilful violation exists, the commission shall promptly advise the chief election officer of its findings and also the applicable clerk of the state legislature in the case of a state office, or the clerk of the respective county legislative body in the case of a county office. In the event a determination is made that probable cause of an unintentional violation exists, the commission shall issue a confidential order that may require the violator to:

- (1) Temporarily cease and desist violation of this subpart or
- (2) File any report, statement, or other information as required by this subpart.

(g) The commission may only initiate prosecution as provided in section 11-213 when it finds that probable cause of a wilful violation exists."

(aa) Section 11-211, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 11-212 Penalties; relief. (a) Any person knowingly violating any provision of this subpart shall, unless otherwise expressly stated, be punishable in the manner prescribed as follows:

- (1) If a natural person, he shall be guilty of a petty misdemeanor and shall be subject to the penalties specified therefor; or

- (2) If a corporation, organization, or association, it shall be punished by a fine not exceeding \$1,000; and
- (3) Whenever a corporation, organization, or association violates this subpart, the violation shall be deemed to be also that of the individual directors, officers, or agents of the corporation, organization, or association, who have knowingly authorized, ordered, or done any of the acts constituting the violation.

(b) Any person may sue for injunctive relief to compel compliance with this subpart.”

(bb) Section 11-212, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 11-213 Prosecution.** (a) For purposes of prosecution for violations of this subpart, the offices of the attorney general and the prosecuting attorney of the respective counties shall be deemed to have concurrent jurisdiction to be exercised as follows:

- (1) Prosecution shall commence with a written request from the commission or upon the issuance of an order of the court;
- (2) In the case of state offices, parties, or issues, the attorney general or the prosecuting attorney for the city and county of Honolulu shall prosecute any violation; and
- (3) In the case of all other offices, parties, or issues, the attorney general or the prosecuting attorney for the respective county shall prosecute any violation.

In the commission’s choice of prosecuting agency, it shall be guided by whether there will be any conflicting interest between the agency and its appointive authority.

(b) The court shall give priority to the expeditious processing of suits under this section.

(c) Prosecuting for violation of any provision of this subpart shall not be commenced after one year has elapsed from the date of the violation or date of filing of the report covering the period in which the violation occurred, whichever is later.”

SECTION 2. Chapter 19, Hawaii Revised Statutes, is amended in the following respects:

(a) Section 19-5, Hawaii Revised Statutes, is repealed.

(b) Section 19-6, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 19-6 Misdemeanors.** The following persons shall be guilty of a misdemeanor:

- (1) Any person who offers any bribe or makes any promise of gain, or with knowledge of the same permits any person to offer any bribe or make any promise of gain for his benefit, to any voter to induce him to sign a nomination paper, and any person who accepts any bribe or promise of gain of any kind as consideration for signing the same, whether the bribe or promise of gain be offered or accepted before or after the signing.

- (2) Any person who wilfully tears down or destroys or defaces any election proclamation or any poster or notice or list of voters or card of instructions or specimen ballot, issued or posted by authority of law.
- (3) Any person printing or duplicating or causing to be printed or duplicated any ballot, conforming as to the size, weight, shape, thickness, or color, to the official ballot so that it could be cast or counted as an official ballot in an election.
- (4) Every person who is disorderly or creates a disturbance whereby any meeting of the precinct officials or the board of registration of voters during an election is disturbed or interfered with; or whereby any person who intends to be lawfully present at any meeting or election is prevented from attending; or who causes any disturbance at any election; and every person assisting or aiding or abetting any disturbance.
- (5) Every person who, either in person or through another, in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any meeting of the board of registration of voters, or in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any election.
- (6) Any person, other than those designated by section 11-132, who remains or loiters within the area set aside for voting as set forth in section 11-132 during the time appointed for voting.
- (7) Any person, including candidates carrying on any campaign activities within the area described in section 11-132 on the day on which an election is being held for the purpose of influencing votes. Campaign activities shall include but not be restricted to the following:
 - (A) The distribution, circulation, posting, or staking of campaign cards, pamphlets, and other literature;
 - (B) The use of public address systems and other public communication media;
 - (C) The use of motor caravans or parades;
 - (D) The use of entertainment troupes or the free distribution of goods and services.

The "day of election" as used in this paragraph shall commence at midnight of the day before the polls are opened and shall end with the closing of the polls.

- (8) Any person who opens a reply envelope containing an absentee ballot voted under chapter 15 or a mailing ballot voted under chapter 15A other than those authorized to do so under chapters 15 and 15A.
- (9) Any voter who makes any false statement in any affidavit required for absentee voting under chapter 15 or for voting by mailing ballots under chapter 15A.
- (10) Any unauthorized person found in possession of any voting machine or keys thereof.
- (11) Every person who willfully violates or fails to obey any of the provisions of law, punishment for which is not otherwise in this chapter specially provided for.

- (12) Any person who, knowing that he is not entitled to register or to vote, registers or votes; and any person taking any oath in this title prescribed or authorized to be administered and wilfully making oath to any false statement of fact, or wilfully making a false answer to any question put to him thereunder.”

(c) Section 19-8, Hawaii Revised Statutes, is amended to read as follows:

“**Sec. 19-8 Other offenses; penalties.** Any violation of this section shall result in a fine of not less than \$50 nor more than \$300 on any person, business, or corporation who refuses an employee the privileges conferred by section 11-95, or subjects an employee to a penalty or deduction of wages because of the exercise of the privileges, or who directly or indirectly violates section 11-95.”

SECTION 3. Severability. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the provision to other persons and circumstances shall not be affected thereby and further, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon its approval.

(Approved May 27, 1975.)

*Edited accordingly.