

ACT 64

H.B. NO. 72

A Bill for an Act Relating to Elections.

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

SECTION 1. Section 11-191, Hawaii Revised Statutes, is amended by amending the definition of “qualifying campaign contribution” to read as follows: “Qualifying campaign contribution” means [a] an aggregate monetary contribution of \$100 or less, [and not more than \$100 of a person’s total aggregate monetary contribution.] by any person during any matching payment period. Qualifying contributions do not include loans or in-kind contributions.”

SECTION 2. Section 11-203, Hawaii Revised Statutes, is amended to read as follows:

“§11-203 Fundraisers and fundraising activities. (a) As used in this section, “fundraiser” means any function held for the benefit of a person that is intended or designed, directly or indirectly, to raise funds for political purposes for which the price or suggested contribution for attending the function is more than \$25 per person.

(b) There shall be no more than two fundraisers held for a person prior to a general or special election in which that person is either elected or defeated.¹

(c) No fundraiser or fundraising activity shall be held unless a notice of intent to hold the function is filed by the person in charge of the function with the commission prior to the date of the function setting forth the name and address of the person in charge, the price per person, the date, hour, and place of the affair and the method thereof.

(d) Fundraisers sponsored by a candidate for a statewide office are exempt from the \$25 limit of subsection (a) and the restrictions of subsection (b), and fundraisers sponsored by a party for a political purpose for the general benefit of the party are exempt from the restrictions of subsection (b).

[e] The following expenses incident to a fundraiser and to all other political fundraising activities held for the benefit of a candidate shall not be considered expenditures within the limitations set by section 11-209:

- (1) The cost of food and beverages consumed at the function;
- (2) Rent and utilities for the premises where the function is held;
- (3) The amount paid for guest speakers and entertainment;
- (4) Printing and postage related to a function; and
- (5) All other direct costs incurred in solicitation of the fundraiser, or fundraising activity.]”

SECTION 3. Section 11-208, Hawaii Revised Statutes, is amended to read as follows:

“§11-208 Voluntary campaign expenditure limitation. (a) Any candidate may voluntarily agree to limit the candidate’s campaign expenditures and those of the candidate’s committee or committees and the candidate’s party in the candidate’s behalf by filing an affidavit with the campaign spending commission[; provided that a candidate may withdraw the candidate’s affidavit no later than thirty days prior to a primary election. Any candidate withdrawing the candidate’s affidavit shall notify all contributors during the election period, in writing, that contributions are not tax deductible].

(b) The affidavit shall state that the candidate knows the voluntary campaign expenditure limitations as set out in section 11-209 and that the candidate is voluntarily agreeing to limit the candidate’s expenditures and those made on the candidate’s behalf by the amount set by law. The affidavit shall be subscribed to by the candidate and notarized.

(c) Affidavits in compliance with this section shall be filed by [January 31 of the year of any primary, special, or general election, or on the date set for filing the candidate’s organizational report as provided in section 11-196, whichever is later.] the time of filing of nomination papers with the chief election officer or county clerk.”

SECTION 4. Section 11-209, Hawaii Revised Statutes, is amended to read as follows:

“§11-209 Campaign expenditures; limits as to amounts. (a) From January 1 of the year of any primary, special, or general election, the total expenditures for each election for candidates who voluntarily agree to limit their campaign expenditures [for each election], inclusive of all expenditures made or authorized by the candidate alone and all campaign treasurers and committees in the candidate’s behalf, shall not exceed the following amounts expressed respectively multiplied by the number of voters in the last preceding general election registered to vote in each respective voting district:

- (1) For the office of governor—\$2.50;
- (2) For the office of lieutenant governor—\$1.40;
- (3) For the office of mayor—\$2.00;
- (4) For the offices of state senator, state representative, county council member, and prosecuting attorney—\$1.40; and
- (5) For the offices of the board of education and all other offices—20 cents.

(b) A candidate or committee who has voluntarily agreed to the expenditure limits in this section and who exceeds their respective expenditure limits shall pay the full filing fee and shall notify all opponents, the chief election officer, [all contributors,] and the commission by telephone and in writing the day the expenditure limits are exceeded. All contributors shall be notified within thirty days of exceeding the expenditure limits. Notification to contributors shall include an announcement that tax deductions based on their contributions are no longer available.”

SECTION 5. Section 11-217.5, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

“(b) In the event that the Hawaii election campaign fund is close to depletion, as determined by the commission, the commission shall determine the amounts available to qualified candidates based on their order of eligibility in qualifying for public funds, as determined by the date of filing of an [affidavit] application for public funds with the commission pursuant to section [11-208;] 11-222; provided that the [affidavit] application has been accepted by the commission.”

SECTION 6. Section 11-218, Hawaii Revised Statutes, is amended to read as follows:

“§11-218 Candidate funding; amounts available. (a) The maximum amount of public funds available to a candidate for the office of governor, lieutenant governor, or mayor in any election year shall not exceed one-fifth or twenty per cent of the total expenditure limit for each election as established for each office [above] listed in this subsection pursuant to section 11-209.

(b) For the office of state senator, state representative, county council member, and prosecuting attorney, the maximum amount of public funds available to a candidate in any election year shall be thirty per cent of the total expenditure limit for each election as established for each office listed in this subsection pursuant to section 11-209.

(c) For the board of education and all other offices, the maximum amount of public funds available to a candidate shall not exceed \$100 in any election year.

(d) The total amount of public funds for a primary, special primary, or general election to which a candidate is entitled to receive under section 11-221 shall not exceed fifty per cent of the maximum amount of public funds available for the candidate’s respective office. Each candidate who qualified for the maximum amount of public funding in any primary or special primary election and who is a candidate for a subsequent general election shall upon application with the commission be entitled to receive up to fifty per cent of the balance of public funds available to such candidate.”

SECTION 7. Section 11-219, Hawaii Revised Statutes, is amended to read as follows:

“§11-219 Qualifying campaign contributions; amounts. As a condition of receiving public funds for a primary, special primary, or general election, a candi-

date shall not be unopposed in any election for which public funds are sought, and shall have filed an affidavit with the commission pursuant to section 11-208 to voluntarily limit the candidate's campaign expenditures and shall be in receipt of the following sum of qualifying campaign contributions for the candidate's respective office for each election:

- (1) For the office of governor—qualifying contributions that in the aggregate, exceed \$100,000;
- (2) For the office of lieutenant governor—qualifying contributions that in the aggregate, exceed \$50,000;
- (3) For the office of mayor for each respective county:
 - (A) County of Honolulu—qualifying contributions that in the aggregate, exceed \$50,000;
 - (B) County of Hawaii—qualifying contributions that in the aggregate, exceed \$15,000;
 - (C) County of Maui—qualifying contributions that in the aggregate, exceed \$10,000; and
 - (D) County of Kauai—qualifying contributions that in the aggregate, exceed \$5,000; and
- (4) For the office of prosecuting attorney for each respective county:
 - (A) County of Honolulu—qualifying contributions that in the aggregate, exceed \$30,000;
 - (B) County of Hawaii—qualifying contributions that in the aggregate, exceed \$10,000; and
 - (C) County of Kauai—qualifying contributions that in the aggregate, exceed \$5,000;
- (5) For the office of county council—for each respective county:
 - (A) County of Honolulu—qualifying contributions that in the aggregate, exceed \$5,000;
 - (B) County of Hawaii—qualifying contributions that in the aggregate, exceed \$1,500;
 - (C) County of Maui—qualifying contributions that in the aggregate, exceed \$5,000; and
 - (D) County of Kauai—qualifying contributions that in the aggregate, exceed \$3,000;
- (6) For the office of [the] state senator—qualifying contributions that, in the aggregate, exceed \$2,500;
- (7) For the office of state [house of] representative—qualifying contributions that, in the aggregate, exceed \$1,500; and
- (8) For all other offices, qualifying contributions that, in the aggregate, exceed \$500.”

SECTION 8. Section 11-222, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Application forms for public funds shall be adopted by the commission and shall provide for a sworn statement by the candidate that the candidate has established eligibility under section 11-220 to receive payments under section 11-217. Each application shall be accompanied by a qualifying campaign contribution statement or statements, and shall be filed with the commission no later than [sixty] thirty days after the general election. Upon approval by the commission of the application and qualifying contribution statement, the commission shall direct the comptroller to distribute matching public funds up to the maximum of the amount of public funds to which the candidate is entitled.

Public funds shall be distributed by the comptroller to each eligible candidate within [ten] twenty days from the date of the candidate's initial application with the commission."

SECTION 9. Section 11-223, Hawaii Revised Statutes, is amended to read as follows:

"§11-223 Candidate funding; restrictions. (a) Each candidate who accepts public campaign funds under this subpart shall be required to abide by the campaign spending limits for the candidate's respective office as set forth in section 11-209. Any candidate who exceeds the spending limits for the candidate's respective office as set forth in section 11-209 shall immediately return all of the public campaign funds the candidate has received to the Hawaii election campaign fund[; provided that any candidate who exceeds the limits by no more than one per cent shall return twenty-five per cent of the fund].

(b) Public campaign funds provided under this subpart shall only be used to:

- (1) Defray campaign expenses incurred by and paid for an eligible candidate or all committees authorized by such candidate; and
- (2) Repay loans, the proceeds of which were used to defray campaign expenses.

(c) No candidate or committee authorized by a candidate shall be entitled to receive any public funds under this subpart unless the candidate [and at least one other candidate for the same elective seat have] has qualified to have [their names] the candidate's name on the election ballot in the [same] election[.] for which funds are sought.

(d) In no event shall any candidate or campaign treasurer in receipt of public campaign funds transfer any portion of such funds to another candidate for any primary, special primary, special, or general election campaign.

(e) All public funds received under this subpart shall be deposited in a financial institution designated to do business in the State. No expenditures of any public funds received under this subpart shall be made except by checks drawn on such checking account. The commission may require such reports relating to the expenditure of such funds as it considers appropriate.

(f) [Upon] Each candidate, on the deadline for filing of a final report for any primary, special primary, special, or general election, [each candidate who has spent an amount below the expenditure limit set for the candidate's respective office, but who has received the maximum amount of public funds allowable for the candidate's respective office,] shall return all unexpended public funds to the Hawaii election campaign fund."

SECTION 10. Act 27, Special Session Laws of Hawaii 1995, as amended by Act 13, Session Laws of Hawaii 1996, is amended by amending section 15 to read as follows:

"SECTION 15. This Act shall take effect on July 1, 1995; provided that [on]:

- (1) On June 30, 1999, this Act shall be repealed and sections 11-1, 11-2, 11-5, 11-191,² 11-194, 11-195, 11-216, 12-8, and 26-1, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the effective date of this Act.
- (2) The amendments made by Act _____, Session Laws of Hawaii 1999, shall not be repealed when the provisions in paragraph (1) are reenacted."

SECTION 11. In printing this Act, the revisor of statutes shall insert the number of this Act in section 10.

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SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 13. This Act shall take effect on June 29, 1999.

(Approved June 7, 1999.)

Notes

1. Prior to amendment “Within six months after a general or special election, however, a candidate or committee directly associated with a candidate who has a deficit may hold an additional fundraiser.” appeared here.
2. Comma should be underscored.