

**ACT 200**

H.B. NO. 1130

A Bill for an Act Relating to Campaign Spending.

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

SECTION 1. Chapter 11, Hawaii Revised Statutes, is amended by adding a new section to part XII, subpart B, to be appropriately designated and to read as follows:

**“§11- Reporting deadline.** When any reporting deadline falls on a Saturday, Sunday, or holiday designated in section 8-1, the reporting deadline shall be the next succeeding day that is not a Saturday, Sunday, or holiday.”

SECTION 2. Section 11-191, Hawaii Revised Statutes, is amended as follows:

1. By amending the definition of “contribution” to read as follows:

““Contribution” [means]:

(1) Means:

(A) A gift, subscription, deposit of money or anything of value, or cancellation of a debt or legal obligation and includes the purchase of tickets to fundraisers for the purpose of:

[(A)] (i) Influencing the nomination for election, or election, of any person to office;

[(B)] (ii) Influencing the outcome of any question or issue that appears or is reasonably certain to appear on the ballot at the next applicable election described in [subparagraph (A); or] clause (i); or

[(C)](iii) Use by any party or committee for the purposes set out in [subparagraph (A) or (B);] clause (i) or (ii);

[(2)] (B) The payment, by any person, political party, or any other entity other than a candidate or committee, of compensation for the personal services or services of another person that are rendered to the candidate or committee without charge or at an unreasonably low charge for the purposes set out in [paragraph (1)(A); (1)(B), or (1)(C);] subparagraph (A); or

[(3)] (C) A contract, promise, or agreement to make a contribution; provided that notwithstanding this [paragraph and paragraphs (1) and (2);] subparagraph and subparagraphs (A) and (B), the term “contributions” shall not include services or portions thereof voluntarily provided without reasonable compensation by individuals to or in behalf of a candidate or committee[; or].

[(4)] Notwithstanding [paragraphs (1), (2), and (3);] subparagraphs (A), (B), and (C), a candidate’s expenditure of the candidate’s own funds or the making of a loan or advance in the pursuit of the candidate’s campaign shall not be a contribution for the purpose of this subpart but shall nevertheless be reportable as a campaign receipt[-];

(2) Does not include an individual or committee engaging in Internet activities for the purpose of influencing an election if:

(A) The individual or committee is uncompensated for the Internet activities; or

(B) The individual or committee uses equipment or services for uncompensated Internet activities, regardless of who owns the equipment and services.

For purposes of this exclusion, “Internet activities” includes sending or forwarding electronic messages; providing a hyperlink or other direct access to another person’s website; blogging; creating, maintaining, or hosting a website; paying a nominal fee for the use of another person’s website; and any other form of communication distributed over the Internet.

For purposes of this paragraph, “equipment and services” includes computers, software, Internet domain names, Internet service providers, and any other technology that is used to provide access to or use of the Internet.

This paragraph does not apply to any payment for an advertisement other than a nominal fee; the purchase or rental of an e-mail address list

made the direction of a committee; or an e-mail address list that is transferred to a committee.”

2. By amending the definition of “expenditure” to read as follows:

““Expenditure” [means]:

- (1) Means:<sup>1</sup>
  - ~~(A)~~ (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 nonmonetary contribution for the purpose of:
    - ~~[(A)]~~ (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 the person’s nomination paper;
    - ~~[(B)]~~ (ii) Influencing the outcome of any question or issue that has been certified to appear on the ballot at the next applicable election; or
    - ~~[(C)]~~ (iii) Use by any party or committee for the purposes set out in ~~[subparagraph (A) or (B)];~~ clause (i) or (ii);
  - ~~[(2)]~~ (B) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person that are rendered to the candidate or committee for any of the purposes mentioned in ~~[paragraph (1)];~~ subparagraph (A); or
  - ~~[(3)]~~ (C) The expenditure by a candidate of the candidate’s own funds for the purposes set out in paragraph (1).
  - ~~[(4)]~~ The term does not include volunteer personal services and voter registration efforts that are not partisan.
- (2) Does not include an individual or committee engaging in Internet activities for the purpose of influencing an election if:
  - (A) The individual or committee is uncompensated for Internet activities; or
  - (B) The individual or committee uses equipment or services for uncompensated Internet activities, regardless of who owns the equipment and services.

For purposes of this paragraph, “Internet activities” includes sending or forwarding electronic messages; providing a hyperlink or other direct access to another person’s website; blogging; creating, maintaining, or hosting a website; paying a nominal fee for the use of another person’s website; and any other form of communication distributed over the Internet.

For purposes of this paragraph, “equipment and services” includes computers, software, Internet domain names, Internet service providers, and any other technology that is used to provide access to or use of the Internet.

This paragraph does not apply to any payment for an advertisement other than a nominal fee; the purchase or rental of an e-mail address list made at the direction of a committee; or an e-mail address list that is transferred to a committee.”

SECTION 3. Section 11-194, Hawaii Revised Statutes, is amended to read as follows:

**“§11-194 Registration.** (a) Each candidate[;] or noncandidate committee[; or party] shall [file] register with the commission by filing an organizational report as set forth in section 11-196 or 11-196.5 as applicable.

~~[(b) Committees that form within ten days of any election and expend in the aggregate more than \$1,000 for the election shall register and fully disclose the expenditure by 4:30 p.m. on the last calendar day prior to the expenditure.~~

~~[(e)] (b) Each candidate [who files nomination papers for office with the chief election officer or county clerk] shall file an organizational report within ten days of:~~

- (1) Filing the nomination papers for office; or
- (2) The date the candidate or candidate’s committee receives contributions or makes expenditures that amount to more than \$100 in the aggregate during the applicable election period[-], whichever occurs first.

~~[(d)] (c) An elected official who is seeking [re-election] reelection to the same office in successive elections shall not be required to file an organizational report under this section unless the candidate is required to report a change in information pursuant to section 11-196(b); provided that the candidate has not sought election to any other office during the period between elections.~~

~~[(e)] (d) A noncandidate committee shall file an organizational report within ten days of receiving contributions or making expenditures that amount to more than \$1,000, in the aggregate, in a two-year election period[-]; except that within the thirty day period prior to an election, a noncandidate committee shall file an organizational report within two days of receiving contributions or making expenditures that amount to more than \$1,000, in the aggregate, in a two-year election period.”~~

SECTION 4. Section 11-195, Hawaii Revised Statutes, is amended by amending subsection (f) to read as follows:

“(f) For purposes of this subpart, whenever a report is required to be filed with the commission, “filed” means received in the office of the commission or county clerk, whichever is applicable, by the date and time specified for the filing of the report; except that a noncandidate committee required to be registered with the commission pursuant to section 11-194(d), and a candidate or the committee of a candidate who is seeking election to the:

- (1) Office of governor;
- (2) Office of lieutenant governor;
- (3) Office of mayor;
- (4) Office of prosecuting attorney;
- (5) County council;
- (6) Senate;
- (7) House of representatives; [øf]
- (8) Office of Hawaiian affairs[;]; or
- (9) Board of education,

~~shall file by electronic means in the manner prescribed by the commission. [Candidates for the offices named in this subsection with contributions or expenditures of less than \$5,000 need not file by electronic means. A candidate or candidate committee without access to a computer or the Internet may request a waiver from electronic filing from the commission.]”~~

SECTION 5. 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

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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.~~

~~(e) (b) 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).]”~~

SECTION 6. Section 11-204.5, Hawaii Revised Statutes, is amended to read as follows:

“~~[[~~**§11-204.5**~~]]~~ **Limit on contributions from nonresident individuals and persons.** Contributions from ~~[any individual or any person as defined in section 11-191,]~~ all persons, except for a member of the candidate’s immediate family, who ~~[is]~~ are not ~~[a resident]~~ residents of the State at the time the contributions are made, including a noncandidate committee organized under the laws of another state and whose participants are not residents of the State, shall not exceed twenty per cent of the total contributions received by a candidate or candidate’s committee for each reporting period.”

SECTION 7. Section 11-207.5, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each candidate, candidate’s committee, or committee, that within the period of ~~[fifteen]~~ fourteen calendar days through four calendar days prior to a primary, special primary, general, or special general election, makes contributions aggregating more than \$500, or receives contributions from any person or entity aggregating more than \$500, shall file a report with the commission or appropriate county clerk’s office on forms provided by the commission, no later than 4:30 p.m., three calendar days prior to the election.”

SECTION 8. Section 11-212, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

- “(a)(1) The candidate committee of each candidate whose name will appear on the ballot in the immediately succeeding election shall file a preliminary report with the commission or appropriate county clerk’s office. Preliminary reports shall be filed on forms provided by the commission no later than 4:30 p.m. on the following dates:
- (A) July ~~[thirtieth]~~ thirty-first of the year of the primary election;
  - (B) Ten calendar days prior to each primary and initial special election; and
  - (C) Ten calendar days prior to a special or general election.
- (2) Each report shall be certified pursuant to section 11-195 and shall contain the following information which shall be current through ~~[the thirtieth calendar day]~~ June 30 prior to the filing of the report filed on the ~~[thirtieth]~~ thirty-first of July and fifth calendar day prior to the filing of other preliminary reports:

- (A) The aggregate sum of all contributions and other campaign receipts received;
- (B) 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 during an election period, which has not previously been reported; provided that if all the information is not on file, the contribution shall be returned to the donor within thirty days of deposit;
- (C) The amount and date of deposit of each contribution and the name, address, employer, and occupation of each donor who contributes an aggregate of \$1,000 or more during an election period, which has not previously been reported; provided that if all the information is not on file, the contribution shall be returned to the donor within thirty days of deposit;
- (D) 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
- (E) A current statement of the balance on hand or deficit.”

SECTION 9. Section 11-213, Hawaii Revised Statutes, is amended by amending subsections (f) and (g) to read as follows:

“(f) 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 six months until the deficit is eliminated, file supplemental reports covering all items prescribed in subsection (a) or subsection (b) in the case of noncandidate committees. The first report shall be due no later than 4:30 p.m. on the ~~[thirtieth]~~ thirty-first day after the last day of the election year.

(g) 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 the candidate files to be on the ballot with the state office of elections, or in the case of a party or committee until they participate in an election again, file supplemental reports detailing all items prescribed in subsection (a) or in the case of a noncandidate committee until they participate in an election again, or file supplemental reports detailing all items prescribed in subsection (b).

The first report shall be due not later than 4:30 p.m. on the ~~[thirtieth]~~ thirty-first calendar day after the last day of the election year.”

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>2</sup>

SECTION 11. This Act shall take effect upon its approval; provided that section 4 shall apply to reporting periods beginning on January 1, 2008.

(Approved June 20, 2007.)

#### Notes

1. Colon should be underscored.

2. Edited pursuant to HRS §23G-16.5.