

ACT 3

S.B. NO. 404

A Bill for an Act Relating to Electioneering Communications.

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

SECTION 1. Section 11-341, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

“(a) Each person who makes an expenditure for electioneering communications in an aggregate amount of more than [~~\$2,000~~] \$1,000 during any calendar year shall file with the commission a statement of information within twenty-four hours of each disclosure date provided in this section.

(b) Each statement of information shall contain the following:

- (1) The name of the person making the expenditure, name of any person or entity sharing or exercising discretion or control over the person, and the custodian of the books and accounts of the person making the expenditure;
- (2) The names and titles of the executives or board of directors who authorized the expenditure, if the expenditure was made by a non-candidate committee, business entity, or an organization;
- (3) The state of incorporation or formation and principal address of the noncandidate committee, business entity, or organization or for an individual, the name, address, occupation, and employer of the individual making the expenditure;
- (4) The amount of each expenditure during the period covered by the statement and the identification of the person to whom the expenditure was made;
- (5) The elections to which the electioneering communications pertain and the names of any clearly identifiable candidates and whether those candidates are supported or opposed;
- (6) If the expenditures were made by a [~~candidate committee or~~] non-candidate committee, the names and addresses of all persons who contributed to the [~~candidate committee or~~] noncandidate committee for the purpose of publishing or broadcasting the electioneering communications;
- (7) If the expenditures were made by an organization other than a [~~candidate committee or~~] noncandidate committee, the names and addresses of all persons who contributed to the organization for the purpose of publishing or broadcasting the electioneering communications;
- (8) Whether [~~or not~~] any electioneering communication is made in coordination, cooperation, or concert with or at the request or suggestion of any candidate, candidate committee, or noncandidate committee, or agent of any candidate if any, and if so, the identification of the candidate, candidate committee, or noncandidate committee, or agent involved; and
- (9) The three top contributors as required under section 11-393, if applicable.”

2. By amending subsection (d) to read:

“(d) For purposes of this section:

“Disclosure date” means, for every calendar year, the first date by which a person has made expenditures during that same year of more than [~~\$2,000~~] \$1,000 in the aggregate for electioneering communications[~~, and the date of any subsequent expenditures by that person for electioneering communications~~].

“Electioneering communication” means any advertisement that is broadcast from a cable, satellite, television, or radio broadcast station; published in any periodical or newspaper or by electronic means; or sent by mail [~~at a bulk rate~~], and that:

- (1) Refers to a clearly identifiable candidate;
- (2) Is made, or scheduled to be made, either within thirty days [~~prior to~~] before a primary or initial special election or within sixty days [~~prior to~~] before a general or special election; and

- (3) Is not susceptible to any reasonable interpretation other than as an appeal to vote for or against a specific candidate.

“Electioneering communication” shall not include communications:

- (1) In a news story or editorial disseminated by any broadcast station or publisher of periodicals or newspapers, unless the facilities are owned or controlled by a candidate, candidate committee, or non-candidate committee;
- (2) That constitute actual expenditures by the expending organization;
- (3) In house bulletins; or
- (4) That constitute a candidate debate or forum, or solely promote a debate or forum and are made by or on behalf of the person sponsoring the debate or forum.

“Person” shall not include a candidate or candidate committee.”

SECTION 2. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that it shall apply beginning with the 2022 primary election.

(Vetoed by Governor and veto overridden by Legislature on July 6, 2021.)