

BARBARA WONG
EXECUTIVE DIRECTOR

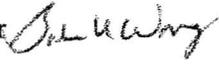


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STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
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February 27, 2009

TO: The Honorable Marcus R. Oshiro, Chair
House Finance Committee
The Honorable Marilyn B. Lee, Vice-Chair
House Finance Committee
Members of the House Finance Committee

FROM: Barbara U. Wong, Executive Director 
Campaign Spending Commission

SUBJECT: Testimony on H.B. No. 215, H.D. 1 Relating to Campaign Financing¹

Friday, February 27, 2009
4:00 p.m. in Conference Room 308

Chair Oshiro, Vice-Chair Lee, and Members of the House Finance Committee, thank you for the opportunity to testify on this bill.

We strongly support H.B. No. 215, HD 1, though we recommend that the Committee make the changes described below.

H.B. No. 215 was introduced at the Campaign Spending Commission's ("Commission") request. The bill updates, organizes, and clarifies the current campaign finance laws with minimal substantive changes. This bill, apparently, was referred to this Committee because there are provisions in the bill relating to partial public financing and the Hawaii election campaign fund.

The HD 1 reported out by the House Committee on Judiciary ("JUD") has an effective date of January 1, 2046, though the bill as introduced had an effective date of January 1, 2010 (Section 3 of this bill proposes the repeal of the current laws and that the new laws take effect on the date that the bill is effective).

Recommendations to the Finance Committee

Since the HD 1 was reported out of JUD, we have spoken with the chair of JUD and he is not opposed to the Finance Committee amending the HD1 as follows:

¹ This bill was referred to both the House Committee on Judiciary and this committee.

S.B. No. 95 is the companion bill and was referred to the Senate Committee on Judiciary and Government Operations, which has not scheduled a hearing on that bill.

- Adding language further clarifying that the Commission has discretion regarding fines for failure to file a report or filing a deficient report;²
- Making additional technical, nonsubstantive amendments for clarity.³
 - Clarifying that the Commission has discretion in applying fines generally in § 11-JJJ.
 - Removing redundant language regarding limited liability companies and partnerships that was placed into § 11-NN.
 - Moving a sentence regarding a sole proprietor's contribution limits from § 11-HH to 11-NN, and clarifying their treatment as individuals.

We also recommend the following:

- Replacing the provision in §11-KK (drawn from section 11-204(b)) that limits contributions to noncandidate committees to \$1,000;⁴ and
- Including the bill's original effective date of January 1, 2010.
- The Committee should carefully consider the amendment that limits the contribution prohibition on contractors with the state and counties only to those contractors that have entered into non-bid contracts. The current law prohibits a state and county government contractor from making contributions during the term of the contract. This law was included in an omnibus bill (Act 203, SLH 2005) that was enacted because of "concerns in the community with respect to reforming Hawaii's campaign spending laws." While we do not opine on the procurement law, we do note that those concerns may still arise even in the context of "bid contracts."

Background information regarding the recodification of the law

The campaign finance laws have their genesis in Act 185, Session Laws of Hawaii 1973. Over the past thirty-six years, numerous amendments have been made to the laws in a piecemeal fashion and, apparently, with little regard to the laws as a whole. The result is laws that are unorganized, difficult to read, and inconsistent in some areas. The current laws are in Part XII, subpart B of Hawaii Revised Statutes ("HRS") chapter 11.

H.B. No. 215, H.D.1 organizes the campaign finance laws into a new part of HRS chapter 11, with ten subparts. Long and involved sections are divided into shorter sections with clear titles which allow a reader to quickly locate the appropriate laws. All the laws on one subject are grouped together, in contrast to the current laws that require a reader to search through the whole subpart for laws that may apply to that subject.

² See Attachment I.

³ Id.

⁴ No person shall make contributions to a noncandidate committee in an aggregate amount greater than \$1,000 in an election. This section shall not apply to ballot issue committees.

The table below lists the sections in the current law and H.B. No. 215, H.D.1. By skimming the sections in H.B. No. 215, H.D.1 a reader would understand the responsibilities of a committee. For example, all the laws relating to registration are contained in subpart C; all the reporting requirements are placed in subpart D. As another example, the laws regarding loans are scattered throughout the current law in HRS sections 11-191, 11-204, and 11-205.6 and hidden in subsections; H.B. No. 215, H.D. 1 proposes to place the provisions regarding loans, with no substantive changes, into Subpart F.

Current law in HRS Chapter 11, Subpart B – table of contents	H.B. 215, H.D. 1 – table of contents
§ 11-191 Definitions	<i>Subpart - Declaration of Policy; Definitions</i>
§ 11-192 Campaign spending commission	§ 11-A Declaration of policy
§ 11-192.5 Commissioners; political activities	§ 11-B Construction
§ 11-193 Duties of the commission	§ 11-C Definitions
§ 11-194 Registration	<i>Subpart - Campaign Spending Commission</i>
§ 11-195 Filing of reports, generally	§ 11-D Campaign spending commission established; composition
§ 11-195.5 Reporting deadline	§ 11-E Terms of office
§ 11-196 Organizational report, candidate's committee	§ 11-F No compensation
§ 11-196.5 Organizational report, noncandidate committee	§ 11-G Duties of the commission
§ 11-197 Designated central committee	§ 11-H Advisory opinions
§ 11-198 Campaign treasurer	§ 11-I Political activities prohibited
§ 11-199 Campaign contributions, generally	§ 11-J Exemptions
§ 11-200 Campaign contributions; restrictions against transfer	<i>Subpart - Registration with the Commission</i>
§ 11-201 Anonymous contributions; unlawful	§ 11-K Registration of candidate committee or noncandidate committee
§ 11-202 False name	§ 11-L Organizational report, candidate committee
§ 11-203 Fundraisers and fundraising activities	§ 11-M Organizational report, noncandidate committee
§ 11-203.5 Prohibition of fundraising on state or county property	§ 11-N Treasurer
§ 11-204 Campaign contributions; limits as to persons	§ 11-O Individual not serve as a committee officer in certain circumstances; committee prohibited from making contributions
§ 11-204.5 Limit on contributions from nonresident individuals and persons	§ 11-P Termination of committee's registration
§ 11-205 Campaign contributions; limits as to political parties	<i>Subpart - Reporting and filing with the Commission</i>
§ 11-205.5 Campaign contributions by state and county contractors	§ 11-Q Filing of reports, generally
§ 11-205.6 Campaign contributions; loans	§ 11-R Candidate committee reports
§ 11-206 Campaign contributions; restrictions as to surplus	§ 11-S Time for candidate committee to file preliminary, final and supplemental reports
§ 11-207 Other contributions and expenditures	§ 11-T Noncandidate committee reports
§ 11-207.5 Late contributions; reports	§ 11-U Time for noncandidate committee to file preliminary, final and supplemental reports
§ 11-207.6 Electioneering communications	§ 11-V Reporting expenditures
§ 11-208 Voluntary campaign expenditure limitation	§ 11-W Late contributions; report
§ 11-209 Campaign expenditures; limits as to amounts	§ 11-X Final election period report for committee receiving or expending \$1,000 or less during the election period
§ 11-210 Study and recommendation	§ 11-Y Failure to file report; filing a substantially defective or deficient report
§ 11-211 House bulletins	§ 11-Z Electioneering communications; statement of information
§ 11-212 Preliminary reports	§ 11-AA Fundraiser; notice of intent
§ 11-213 Final and supplemental reports	§ 11-BB Reporting deadline
§ 11-213.5 Failure to file report; filing a substantially defective or deficient report	
§ 11-214 Disposition of funds	
§ 11-215 Advertising	
§ 11-216 Complaints, investigation, and notice;	

determination	§11-CC Sale or use of information <i>Subpart- Contributions; prohibitions; limits</i>
§ 11-217 Hawaii election campaign fund; creation	§11-DD Contributions, generally
§ 11-217.5 Depletion of fund	§11-EE False name contributions prohibited
§ 11-218 Candidate funding; amounts available	§11-FF Anonymous contributions prohibited
§ 11-219 Qualifying campaign contributions; amounts	§11-GG Fundraising on state or county property prohibited
§ 11-220 Eligibility for payments	§11-HH Contributions by state and county contractors prohibited
§ 11-221 Entitlement to payments	§11-II Contributions by foreign national or foreign corporation prohibited
§ 11-222 Candidate funding; application	§11-JJ Contributions to candidate committees; limits
§ 11-223 Candidate funding; restrictions	[§11-KK Contributions to noncandidate committees; limits]
§ 11-224 Public funds; report required; return of funds	§11-LL Family contributions
§ 11-225 Public funds; examination and audit; payments	§11-MM Contributions to a party
§ 11-226 Tax deductions	§11-NN Aggregation of contributions and expenditures
§ 11-227 Public notices	[§11-OO Contributions limited from nonresident persons]
§ 11-228 Administrative fines; relief	§11-PP Other contributions and expenditures
§ 11-229 Criminal prosecution	§11-QQ Excess contribution; return; escheat <i>Subpart- Loans</i>
	§11-RR Loan to candidate committee
	§11-SS Reporting loan; written loan agreement
	§11-TT Noncandidate committee loans prohibited <i>Subpart- Expenditures</i>
	§11-UU Campaign funds used only for certain purposes
	§11-VV Prohibited uses of campaign funds
	§11-WW Exceptions
	§11-XX Disposition of campaign funds; termination of registration <i>Subpart- Advertisements</i>
	§11-YY Advertisements
	§11-ZZ House bulletins <i>Subpart- Enforcement</i>
	§11-AAA Subpoena powers
	§11-BBB Filing of complaint
	§11-CCC Notice of complaint; opportunity to explain or respond to complaint
	§11-DDD Initial determination by the commission
	§11-EEE Preliminary determination regarding probable cause
	§11-FFF Waiver of further proceedings
	§11-GGG Contested case hearing
	§11-HHH Dismissal
	§11-III Final determination of violation; order
	§11-JJJ Administrative fines; relief
	§11-KKK Criminal referral
	§11-LLL Criminal prosecution <i>Subpart - Partial public financing</i>
	§11-MMM Hawaii election campaign fund; creation
	§11-NNN Depletion of fund
	§11-OOO Voluntary expenditure limits; filing affidavit
	§11-PPP Reduced filing fee
	§11-QQQ Tax deduction for qualifying contributions

	§11-RRR	Maximum amount of public funds available to candidate
	§11-SSS	Candidate exceeds voluntary expenditure limits
	§11-TTT	Reserving use of contributions
	§11-UUU	Eligibility requirements for public funds
	§11-VVV	Minimum qualifying contribution amounts; qualifying contribution statement
	§11-WWW	Application for public funds
	§11-XXX	Payment to candidate
	§11-YYY	Use of public funds
	§11-ZZZ	Post-election report required
	§11-AAAA	Post-election examination and audit; return of funds
	§11-BBBB	Report and recommendation

H.B. No. 215 (as introduced) was drawn from a draft prepared by the Campaign Spending Commission's Blue Ribbon Recodification Committee ("Committee"). The Committee met regularly for nine months in 2008 in order to complete the draft. The Committee was comprised of the Commission's staff and seventeen attorneys experienced in campaign finance law who represented various interests.⁵

We have included with our testimony two derivation tables. Attachment 2 compares the sections in H.B. 215, H.D. 1 to the current law; and Attachment 3 which compares the current law to the sections in H.B. 215, H.D.1.

Attachment 1 (changes that the JUD chair would not be opposed to)
Attachment 2 (comparing the draft to the current law)
Attachment 3 (comparing the current law to the draft)

⁵ James Case, Esq.; Calvert G. Chipchase IV, Esq.; Leroy Colombe, Esq.; Brian DeLima, Esq.; J. George Hetherington, Esq.; Sandra Hoshida, Esq.; William Kaneko, Esq.; Brian Kang, Esq.; Jared Kawashima, Esq.; Bert Kobayashi, Jr., Esq.; James Koshiba, Esq.; Judge Randall Lee; Matt Matsunaga, Esq.; Owen Matsunaga, Esq.; Marilyn Niwao, Esq.; Terry Thomason, Esq.; and Renee Yuen, Esq.

I. Further clarifying that the Commission has discretion regarding fines for failure to file a report or filing a deficient report

(1) Pages 41-43

§ 11-Y, Failure to file report; filing a substantially defective or deficient report. (a) True and accurate reports shall be filed with the commission on or before the due date specified in this part. Any committee that is required to file reports under this part may be subject to the fines in this section if the report is not filed by the due date or if the report is substantially defective or deficient, as determined by the commission.

(b) The fine for not filing a report by the due date ~~shall~~ may be \$50 per day for the first seven days, beginning with the day after the due date of the report, and \$200 per day thereafter, not to exceed twenty-five per cent of the total amount of contributions or expenditures, whichever is greater, for the period covered by the report; provided that the minimum fine for a report filed more than four days after the due date ~~shall~~ may be \$200.

(c) Subsection (b) notwithstanding, if a candidate committee does not file the second preliminary primary report or the preliminary general report or if a noncandidate committee does not file the preliminary primary report or the preliminary general report by the due date, the fine ~~shall~~ may be \$300 per day, not to exceed twenty-five per cent of the total amount of contributions or expenditures, whichever is greater, for the period covered by the report; provided that the minimum fine ~~shall~~ may be \$300.

(d) If the commission determines that a report is substantially defective or deficient, the commission shall notify the candidate's committee by first class mail that:

- (1) The report is substantially defective or deficient; and
- (2) A fine may be assessed.

(e) If the corrected report is not filed with the commission's electronic filing system on or before the fourteenth day after the notice of deficiency has been mailed, the fine for a substantially defective or deficient report ~~shall~~ may be \$50 per day for the first seven days, beginning with the fifteenth day after the notice was sent, and \$200 per day thereafter, not to exceed twenty-five per cent of the total amount of contributions or expenditures, whichever is greater, for the period covered by the report; provided that the minimum fine for not filing a corrected report more than eighteen days after the notice was sent ~~shall~~ may be \$200.

(f) The commission shall publish on its website the names of all candidate committees that have failed to:

- (1) File a report, or
 - (2) Correct a report within the time allowed by the commission.
- (g) All fines collected under this section shall be deposited into the general fund.

(2) Pages 73-74

§ 11-JJJ, Administrative fines; relief. (a) The commission may make a decision or issue an order affecting any person violating any provision of this part or section 281-22 that ~~shall~~ may provide for the assessment of an administrative fine as follows:

(1) If a natural person, an amount not to exceed \$1,000 for each occurrence or an amount equivalent to three times the amount of an unlawful contribution or expenditure~~[-which ever is greater;]~~ or

(2) If a corporation, organization, association, or labor union, an amount not to exceed \$1,000 for each occurrence; and

(3) Whenever a corporation, organization, association, or labor union violates this part, the violation may be deemed to be also that of the individual directors, officers, or agents of the corporation, organization, association, or labor union, who have knowingly authorized, ordered, or done any of the acts constituting the violation.

(b) Any order for the assessment of an administrative fine may not be issued against a person without providing the person written notice and an opportunity to be heard at a hearing conducted under chapter 91. A person may waive these rights by written stipulation or consent.

(c) If an administrative fine is imposed upon a candidate, the commission may order that the fine, or any portion, be paid from the candidate's personal funds.

(d) If the person to whom the commission's order is directed does not comply with the order, the first circuit court, upon application of the commission, shall issue an order requiring the person to comply with the commission's order. Failure to obey such a court order shall be punished as contempt.

(e) Any administrative fine collected by the commission shall be deposited in the general fund of the State.

(f) Any person or the commission may sue for injunctive relief to compel compliance with this part.

(g) The provisions of this section shall not prohibit prosecution under any appropriate provision of the Hawaii Penal Code or section 11-LLL.

(h) The provisions of this section shall not apply to any person who, prior to the commencement of proceedings under this section, has paid or agreed to pay the fines prescribed by sections 11-Y (b), (c), or (e) or 11-YY (b).

II. Additional technical, nonsubstantive amendments for clarity

(3) Pages 51-52

§ 11-HH, Contributions by state and county contractors prohibited. (a) It shall be unlawful for any person exempt from competitive solicitation under chapters 102, 103, 103D, and 103F who enters into any contract with the State, any of its counties, or any department or agency thereof either for the rendition of personal services, the buying of property, or furnishing of any material, supplies, or equipment to the State, any of its counties, department or agency thereof, or for selling any land or building to the State, any of its counties, or any department or agency thereof, if payment for the performance of the contract or payment for material, supplies, equipment, land, property, or building is to be made in whole or in part from funds appropriated by the legislative body, at any time between the execution of the contract through the completion of the contract, to:

(1) Directly or indirectly make any contribution or to promise expressly or impliedly to make any contribution to any party, committee, or candidate or to any person for any political purpose or use; or

(2) Knowingly solicit any contribution from any person for any purpose during any period.

(b) Except as provided in subsection (a), this section shall not prohibit or make unlawful the establishment or administration of, or the solicitation of contributions to, any noncandidate committee for the purpose of influencing the nomination for election or the election of any person to office; ~~provided that the commission shall by rule establish contribution limits for limited liability companies as defined in section 428-101, limited liability partnerships as defined~~

~~in section 425-101, and limited liability limited partnerships as defined in section 425E-102. Sole proprietors subject to this section shall comply with applicable campaign contribution limits in section 11-JJ(a).¹~~

(c) For purposes of this section, "completion of the contract" means that the parties to the government contract have either terminated the contract prior to completion of performance or fully performed the duties and obligations under the contract, no disputes relating to the performance and payment remain under the contract, and all disputed claims have been adjudicated and are final.

(4) Pages 55-57

§11-NN Aggregation of contributions and expenditures.² (a) All contributions and expenditures of a person whose contributions or expenditures are financed, maintained, or controlled by any corporation, labor organization, association, party, or any other person, including any parent, subsidiary, branch, division, department, or local unit of the corporation, labor organization, association, party, political committees established and maintained by a national political party, or by any group of those persons shall be considered to be made by a single person.

(b) A contribution by a partnership shall not exceed the limitations in this section and shall be attributed to the partnership and to each partner in direct proportion to the partner's share of the partnership profits, according to instructions that shall be provided by the partnership to the party, candidate or committee receiving the contribution.

(c) A contribution by a limited liability company shall be treated as follows:

(1) A contribution by a limited liability company that is treated as a partnership by the Internal Revenue Service shall be considered a contribution from a partnership;

(2) A contribution by a limited liability company that is treated as a corporation by the Internal Revenue Service shall be considered a contribution from a corporation;

(3) A contribution by a limited liability company with a single individual member that is not treated as a corporation by the Internal Revenue Service shall be attributed only to that single individual member; and

(4) A limited liability company that makes a contribution shall, at the time the limited liability company makes the contribution, provide information to the party, committee, or candidate receiving the contribution specifying how the contribution is to be attributed.

(d) Sole Proprietors are treated as individuals for purposes of compliance with section 11-JJ.

~~(e)~~ (e) A person's contribution to a party that is earmarked for a candidate or candidates is included in the aggregate contributions of both the person and the party to the candidate or candidates if the party exercises any direction or control over the choice of the recipient candidate or candidates. The earmarked funds shall be promptly distributed by the party to the candidate.

~~(f)~~ (f) A contribution by a dependent minor shall be reported in the name of the minor but included in the aggregate contributions of the minor's parent or guardian.

¹ These provisions are in section 11-NN(b) and (c).

² JUD added the language in subsections (b) and (c).

**Campaign Spending Commission
February 27, 2009**

TABLE OF DERIVATION: COMPARING H.B. 215, H.D.1 TO CURRENT LAW		
H.B. 215, HD.1	Title	Current Law
Subpart Declaration of policy: definitions		
§11-A	Declaration of policy	New section drawn from language in committee reports for prior amendments to the campaign finance law.
§11-B	Construction of laws	New section which implements §11-A. The concept is drawn from the preamble to HRS chapter 84, relating to standards of conduct; and HRS section 92-1, relating to a declaration of policy and intent regarding public meetings and records.
§11-C	Definitions	§11-191
	Advertisement	Amended to specifically exclude from the definition of advertisement (1) a "house bulletin" (HRS section 11-211); and (2) an editorial or letter to the editor.
	Ballot issue committee	Amended to clarify that a ballot issue committee is a noncandidate committee; and add a reference to "incurring financial obligations."
	Campaign funds	NA - new definition which is intended to include all funds or anything of value received by a committee.
	Candidate	Amended by deleting the reference in paragraph (4) to certification because of the apparent overlap with paragraph (1), relating to filing of nomination papers; reordering the section by placing language regarding the termination of a candidate's registration with the Commission at the end of the definition; and removing a superfluous reference to one candidate committee currently in this definition and in HRS section 11-197 and placing that requirement in section 11-K(f) of the draft.
	Candidate committee	Uses the term "candidate committee" rather than "candidate's committee;" clarifies that the committee receives campaign funds, makes expenditures, or "incurs financial obligations;" and includes language that is currently in the definition of "committee."
	Clearly identified	Same as the current law.
	Commission	Same as the current law.
	Commissioner	Amended by deleting reference to "campaign spending."
	Committee	Amended by specifying that a committee is either a candidate committee or noncandidate committee.
	Contribution	Amended by listing transactions that are contributions; others that are not contributions; and including references to loans.
	Earmarked funds	Amended by deleting a "party" because it is included in the definition of a committee.
	Election	Same as the current law.
	Election period	Amended by listing the elements and specifying when the period begins and ends.
	Expenditure	Amended by listing transactions that are expenditures; others that are not expenditures.
	House bulletin	Same as the current law. The Committee did discuss that the "house bulletin" exclusion currently in section 11-211 is not applicable to materials circulated beyond the target group.
	Immediate family	Same as the current law.
	Independent expenditure	Amended by changing "candidate's committee" to "candidate committee."
	Individual	Same as the current law.
	Loan	Same as the current law.
	Newspaper	Same as the current law.
	Noncandidate committee	Amended by clarifying that the committee receives campaign funds, makes expenditures, or "incurs financial obligations."
	Office	Same as the current law.
	Other receipts	NA - new definition which includes intended to include all miscellaneous

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 Table of Derivation
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		sources of funds received by committee. Other receipts are included in the definition of "campaign funds."
	Party	Same as the current law.
	Person	Same as the current law.
	Political committees established and maintained by a national political party	Same as the current law.
	Qualifying contribution	This definition is applicable to only candidates accepting partial public financing. The definition was amended by deleting the reference to "campaign" and listing the elements for a "qualifying contribution;" and specifying transactions that are not "qualifying contributions" including a candidate's own funds (drawn from the definition of "private funds").
	Special election	Same as the current law.
	Treasurer	Amended by deleting the reference to "campaign" (i.e., "treasurer", rather than "campaign treasurer").
Definitions deleted from section 11-191:		
	Matching payment period	Deleted and the concept is included in §11-VVV(f)
	Private contributions	This definition is applicable to only candidates accepting partial public financing. The concept is deleted in section 11-191 and included in the definition of "qualifying contribution."
	Residual or surplus funds	This definition is deleted. This draft collapses sections 11-200 and 11-206 and places the provisions in section 11-UU. The use of contributions after an individual ceases to be a candidate is discussed in the draft in section 11-XX.
	Separate segregated fund	This definition is deleted because the term is superfluous.
	Surplus funds	This definition is deleted; see above regarding "residual or surplus funds."
	Terminate candidacy	This definition is deleted and the concept is included in §11-P.
Subpart Campaign Spending Commission		
These are administrative provisions which were drawn from two existing sections. The law was reorganized into six sections with more descriptive titles. There were no substantive changes.		
§11-D	Campaign spending commission established; composition	11-192
§11-E	Terms of office	11-192
§11-F	No compensation	11-192
§11-G	Duties of the commission	11-193(a)(1) to (a)(16); except that <ul style="list-style-type: none"> • Section (a)(8), relating to a code of fair campaign practices was deleted because it was struck down by the Hawaii Federal District Court; and section (a)(16), relating to advisory opinions, was placed in a separate section 11-H. • The terms "fine" and "penalty" are used throughout the current law. These words do not appear to have a different meaning and the term "fine" has been used through the draft, including this section.
§11-H	Advisory opinions	11-193(a)(16)
§11-I	Political activities prohibited	11-192.5
§11-J	Exemptions	11-193(c)

Subpart Registration with the Commission		
A committee is required to register with the commission and file periodic disclosure reports. The existing requirements for registration and reporting are organized into two separate subparts (this subpart and the next subpart) to differentiate these activities.		
§11-K	Registration of candidate committee or noncandidate committee	Most of §11-K is drawn from HRS section 11-194, except for draft subsection (b) which codifies an existing practice to implement the requirement for electronic filing; and draft subsection (e) which is drawn from HRS section 11-191.
§11-L	Organizational report, candidate committee	This section is drawn from HRS section 11-196 with no substantive changes.
§11-M	Organizational report, noncandidate committee	This section is drawn from HRS section 11-196.5. Subsection (a) (10) proposes adding a requirement that the committee provide the "account number" (which will not be made available to the public). This information is required under the existing law must for a candidate committee registering with the Commission.
§11-N	Treasurer	This section is drawn from HRS sections 11-198 and 11-199; and Hawaii Administrative Rules section 2-14.1-6. This section is intended to centralize the laws regarding responsibilities of the treasurer, including record-keeping and record retention.
§11-O	Individual not serve as a committee officer in certain circumstances; committees prohibited from acting in concert, or soliciting or making contributions	<p>There is a substantive change to this section, which is drawn from HRS section 11-204(h). This generated substantial discussion among committee members.</p> <p>HRS section 11-204 (h) currently provides as follows:</p> <p style="padding-left: 40px;">No committee that supports or opposes a candidate for public office shall have as officers individuals who serve as officers on any other committee which supports or opposes the same candidate. No such committee shall act in concert with, or solicit or make contributions on behalf of, any other committee. (Emphasis added.)</p> <p>After discussion at several meetings, the Committee attempted to clarify the term "such" with the following language:</p> <p style="padding-left: 40px;">(a) No committee that supports or opposes a candidate shall have an officer who serves as an officer on any other committee which supports or opposes the same candidate. (b) No committee that supports or opposes a candidate shall act in concert with, or solicit or make contributions on behalf of, any other committee.</p> <p>Staff subsequently recognized that is a candidate committee may work in concert with another candidate committee; e.g., the cost of an advertisement featuring two candidates or costs of a joint fundraiser may be split by the candidates. There does not appear to be any corruption issues when candidates split the costs pro-rata for certain expenses. A noncandidate committee may also work in concert with another noncandidate committee. Thus, this draft retains the first sentence of section 11-204(h) in a new subsection (a); and proposes amending the language in new subsection (b) as follows:</p> <p style="padding-left: 40px;">(b) If a committee has an officer who serves as an officer on</p>

		another committee which supports or opposes the same candidate, the committees shall not act in concert with, or solicit or make contributions on behalf of, any other committee.
§11-P	Termination of committee's registration	This section is drawn from the existing definition of "terminate candidacy" in HRS section 11-191 and the provisions relating to termination of registration in HRS section 11-213(e).
Subpart Reporting and filing with the Commission		
Various reporting requirements are spread throughout the current law. This Subpart reorganizes the law so that the names of the reports that must be filed with the Commission and the requirements for these reports can be easily determined by the title of the new section. While the language has been substantially changed, there are no substantive changes, except as noted below.		
§11-Q	Filing of reports, generally	Drawn from HRS section 11-195.
§11-R	Candidate committee reports	<p>Drawn from HRS sections 11-212 and 11-213. Different persons are responsible for filing different candidate committee reports under the current law:</p> <ul style="list-style-type: none"> • Section 11-212 currently states that preliminary reports shall be filed by the candidate committee. • Section 11-213(a) states that the candidate shall file the final primary report • Section 11-213(d) provides that that the final election period report shall be filed by "each candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee." • In the case of a deficit, section 11-213(f) requires that a supplemental report be filed by "the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee." • In the case of a surplus, section 11-213(g) requires that a supplemental report be filed by the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee." <p>The candidate and treasurer are responsible for filing the candidate committee reports, pursuant to §11-R and §11-S of this draft.</p>
§11-S	Time for candidate committee to file preliminary, final and supplemental reports	Drawn from HRS sections 11-212 and 11-213.
§11-T	Noncandidate committee reports	<p>Drawn from HRS sections 11-212 and 11-213.</p> <p>As to noncandidate committee reports:</p> <ul style="list-style-type: none"> • Section 11-212 specifies that the "noncandidate committee" must file the preliminary reports. • Section 11-213(b) states that the "noncandidate committee" must file the final primary report. • In the case of a deficit, section 11-213(f) requires that a supplemental report be filed by "the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee." • In the case of a surplus, section 11-213(g) requires that a supplemental report be filed by the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee." <p>This draft proposes that the "authorized person in the case of a party, or campaign treasurer in the case of a committee" be responsible for filing the</p>

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		noncandidate committee reports.
§11-U	Time for noncandidate committee to file preliminary, final and supplemental reports	Drawn from HRS sections 11-212 and 11-213.
§11-V	Reporting expenditures	Drawn from HRS section 11-207(d).
§11-W	Late contributions; reports	Drawn from HRS section 11-207.5 with no changes.
§11-X	Final election period report for committee receiving or expending \$1,000 or less during the election period	Drawn from HRS section 11-212(e) with no changes.
§11-Y	Failure to file report; filing a substantially defective or deficient report	Drawn from HRS section 11-213.5 with no changes.
§11-Z	Electioneering communications; statement of information	Drawn from HRS section 11-207.6.
§11-AA	Fundraisers; notice of intent	Drawn from HRS section 11-203 with no changes.
§11-BB	Reporting deadline	Drawn from HRS section 11-195.5 with no changes.
§11-CC	Sale or use of information	Drawn from HRS section 11-193(a) (4) with no changes.
<p>Section 11-212(d), relating to the short form report for a committee receiving or expending \$2,000 or less during a reporting period, was not included in the bill as submitted because there no longer is justification for the short form report. The short form report, apparently, was intended to reduce the burden of filing a paper report and the schedules. The current electronic filing system, however, has significantly reduced such a concern.</p> <p>This change is also included in several bills that the Commission asked to be introduced in the 2009 session (S.B. 93 and H.B. 217).</p>		
Subpart - Contributions; prohibitions; limits		
<p>This Subpart reorganizes various laws regarding contributions to allow readers to determine contribution prohibitions and limits by viewing the title of the sections.</p>		
§11-DD	Contributions, generally	Drawn from HRS section 11-199 with no substantive changes; the language currently in HRS section 11-199(b) was placed in section 11-N.
§11-EE	False name contributions prohibited	Drawn from HRS section 11-202 with no substantive changes. Subsection (a) deletes superfluous language and adds a reference to a service; i.e., a person may make a false name contribution of a service. Subsection (b) removes language regarding the "true or established name" of the owner.
§11-FF	Anonymous contributions prohibited	Drawn from HRS section 11-201 with no substantive changes. Subsection (d) adds references to the specific sections relating to reporting of the calabash bowl contribution.
§11-GG	Fundraising on state or county property prohibited	Drawn from HRS section 11-203.5 with no substantive changes.
§11-HH	Contributions by state and county contractors prohibited	Drawn from HRS section 11-205.5 with no substantive changes. Subsection (b) deletes a reference to a "separate segregated fund" and replaces it with "noncandidate committee;" and deletes a superfluous reference to "state or national bank, corporation, or labor organization."
§11-II	Contributions by foreign national or foreign corporation prohibited	Drawn from HRS section 11-204(i) with no substantive changes.
§11-JJ	Contributions to candidate committees; limits	Drawn from HRS section 11-204(a) with no substantive changes. The reference to loans in the current law was moved to section 11-RR in the draft.
§11-KK	Reserved	JUD reserved this section. The bill as introduced had language drawn from HRS section 11-204(b), relating to contributions to noncandidate committees and limits, with no substantive changes. The sentence

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		excluding contributions to ballot issue committees from the \$1,000 contribution limit is drawn from HRS section 11-204(k).
§11-LL	Family contributions	Drawn from HRS sections 11-204(c) and (d) with no substantive changes. The intent of this is to have one section discussing laws relating to family contributions.
§11-MM	Contributions to a political party	Drawn from HRS sections 11-204(j), 11-205, and 11-200(e) with no substantive changes. The intent of this is to have one section discussing laws relating to party contributions.
§11-NN	Aggregation of contributions and expenditures	Drawn from HRS sections 11-204(f), (g); 11-205; and 11-204(d) with no substantive changes. This section discusses special rules involving the aggregation and attribution of contributions that are currently spread throughout the law.
§11-00	Reserved	JUD reserved this section. The bill as introduced had language drawn from HRS section 11-204.5, relating to contributions limited from nonresident persons, with no substantive changes.
§11-PP	Other contributions and expenditures	Drawn from HRS section 11-207 with no substantive changes. The draft clarifies that subsection (c) is applicable only to a candidate who applies for partial public funding.
§11-QQ	Excess contribution; return; escheat	Drawn from HRS section 11-204(e) with no substantive changes. In subsection (b) a reference to "prosecution" is deleted and replaced with "administrative action."
Subpart _ Loans		
The current law discusses loans in HRS section 11-205.6. §11-RR summarizes the four types of loans. Subsection (b) includes the amendments regarding loans that were added in Act 244, SLH 2008. The titles of the two other sections explain their contents.		
§11-RR	Loan to candidate committee	HRS section 11-205.6
§11-SS	Reporting loan; written loan agreement	HRS section 11-205.6
§11-TT	Noncandidate committee loan prohibited	HRS section 11-205.6
Subpart _ Expenditures		
Under current law, three sections discuss the use of contributions, with two sections providing mostly overlapping, if not redundant terms. <ul style="list-style-type: none"> • HRS §11-200 addresses how contributions may be used before an election. • HRS §11-206 discusses the use of "surplus funds" after an election. • HRS §11-214 provides guidelines for the use of contributions when a person ceases to be a candidate. This draft proposes the following: <ul style="list-style-type: none"> • Combining the provisions of HRS §§ 11-200 and 11-206 into §11-UU to provide simplification and clarity regarding the use of funds by a candidate (this is the only substantive change); • §11-VV specifies the applicable prohibitions; • §11-WW lists the exceptions or special situations; and • §11-XX provides guidelines for the disposition of funds when a person is no longer a candidate. The Commission submitted several bills in 2008 which included a provision to "collapse" HRS §§11-200 and 11-206, but this provision was not passed.		
§11-UU	Campaign funds used only for certain purposes	Drawn from HRS sections 11-200 and 11-206.
§11-VV	Prohibited uses of campaign funds	Drawn from HRS sections 11-200 and 11-206.
§11-WW	Exceptions	Drawn from HRS sections 11-200 (c) and (d).
§11-XX	Disposition of campaign	Drawn from HRS section 11-214.

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	funds; termination of registration	
§11-XX(a)		Drawn from HRS section 11-214(a)
§11-XX(b)		Drawn from HRS section 11-214(b)
§11-XX(c)		Drawn from HRS 11-214(c)(1)
§11-XX(d)		Drawn from HRS section 214(c)(2)
§11-XX(e)		Drawn from HRS section 11-214(e)
§11-XX(f)		Drawn from HRS section 11-214(f)
§11-XX(g)		Drawn from HRS section 11-214(g)
Subpart H Advertisements		
This Subpart is comprised of two sections. An advertisement requires a notice; and a disclaimer if the advertisement is published without the approval of a candidate. A house bulletin is exempt from the campaign law and is not an advertisement.		
§11-YY	Advertisements	Drawn from HRS section 11-215. While the language differs from the language in HRS section 11-215, there are no substantive changes.
§11-ZZ	House bulletins	Drawn from HRS section 11-211 with almost no changes.
Subpart Enforcement		
The proposed changes in this Subpart are drawn from various sections in the current law, but derived principally from HRS section 11-216.		
§11-AAA	Subpoena powers	Drawn from HRS section 11-193(b). This draft permits the documents to be produced at the commission office or at any place in the State.
§11-BBB	Filing of complaint	Drawn from HRS section 11-216(a) with no substantive changes. Committee members observed that the requirement for an affidavit differs from the Federal law; the Federal Election Commission will accept a letter as a complaint.
§11-CCC	Notice of complaint; opportunity to explain or respond to complaint	Drawn from HRS section 11-216(b) with no substantive changes.
§11-DDD	Initial determination by the commission	Drawn from HRS section 11-216(b) with no substantive changes. This section merely lists the alternatives available to the Commission.
§11-EEE	Preliminary determination regarding probable cause	Drawn from HRS sections 11-216(c) and (d) with no substantive changes.
§11-FFF	Waiver of further proceedings	Drawn from HRS section 11-216(g) with no substantive changes.
§11-GGG	Contested case hearing	Drawn from HRS section 11-216(d) with no substantive changes.
§11-HHH	Dismissal	Drawn from HRS section 11-216(e) with no substantive changes.
§11-III	Final determination of violation; order	Drawn from HRS section 11-216(f) with no substantive changes.
§11-JJJ	Administrative fines; relief	Drawn from HRS section 11-228 with no substantive changes. Committee members noted that the current law subjects corporations to a fine at a lower rate than natural persons.
§11-KKK	Criminal referral	Drawn from HRS section 11-216(c) with no substantive changes. A Committee member suggested consideration of a new law regarding a false complaint.
§11-LLL	Criminal prosecution	Drawn from HRS section 11-229 with no substantive changes.
Subpart Partial Public Financing		
This Subpart reorganizes the various requirements for partial public financing that are spread throughout the current law.		
§11-MMM	Hawaii election campaign fund; creation	Drawn from HRS section 11-217 with no substantive changes.
§11-NNN	Depletion of fund	Drawn from HRS section 11-217.5. Under current law, a candidate's request for funds is denied if "moneys in the fund are near depletion." This draft replaces that with the another standard - "unless there are two years of

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		budgeted expenses in reserve.” The draft also adds a reference to the pilot comprehensive public funding program for elections to the county of Hawaii council
§11-000	Voluntary expenditure limits; filing affidavit	Drawn principally from HRS section 11-209. Subsection (a) was drawn from HRS section 11-219(a). Subsection (c) is drawn from section 11-226(b). The September election and November election are described differently in the county ordinances; these names were added in subsection (d) after consultation with the Clerks of the respective counties.
§11-PPP	Reduced filing fee	This new section is added because nothing in the current campaign law discusses the reduced filing fee for a candidate who agrees to limit campaign expenditures.
§11-QQQ	Tax deduction for qualifying contributions	Drawn from HRS section 11-226 with no substantive changes.
§11-RRR	Maximum amount of public funds available to candidate	Drawn from HRS section 11-218 with no substantive changes.
§11-SSS	Candidate exceeds voluntary expenditure limit	Drawn from HRS section 11-209(b). The current law requires that all contributors be “notified” if a candidate exceeds the expenditure limit; this draft specifies that “reasonable notice” be provided to all contributors if the expenditure limit is exceeded.
§11-TTT	Reserving use of contributions	Drawn from HRS section 11-206(a) with no substantive changes.
§11-UUU	Eligibility requirements for public funds	Drawn from HRS section 11-220 with no substantive changes.
§11-VVV	Minimum qualifying contribution amounts; qualifying contribution statement	Drawn from HRS section 11-219. Subsection (b) is drawn from section 11-221.
§11-WWW	Application for public funds	Drawn from HRS section 11-222. The September election and November election are described differently in county charters and ordinances; these names were added after consultation with the Clerks of the respective counties.
§11-XXX	Payment to candidate	Drawn from HRS section 11-222 with no substantive changes.
§11-YYY	Use of public funds	Drawn from HRS section 11-223. In subsection (a), the reference to a “financial institution” was replaced with the term “depository institution.”
§11-ZZZ	Post-election report required	Drawn from HRS section 11-224. The September election and November election are described differently county charters and ordinances; these names were added after consultation with the Clerks of the respective counties.
§11-AAAA	Post-election examination and audit; return of funds	Drawn from HRS section 11-225. Subsection (c) of this draft adds a two-year limitation period for the Commission to discover the payment of excess public funds. If public funds are used for an improper purpose a candidate must pay three hundred per cent of such amount (under current law); subsection (d) of this draft specifies that other fines and penalties may be applicable.
§11-BBBB	Report and recommendation	Drawn from HRS section 11-210. Current law requires the submission of a “study” to the Legislature. This draft provides for the submission of proposed legislation and adds a reference in the law regarding appropriations to the comprehensive public funding program for elections to the county of Hawaii council.

**Campaign Spending Commission
February 27, 2009**

CURRENT CAMPAIGN FINANCE LAW COMPARED TO RECODIFICATION DRAFT		
N/A – new section	§11-A	Declaration of policy
N/A – new section	§11-B	Construction
11-191, Definitions	§11-C	Definitions
Advertisement		
Ballot issue committee		
N/A - new definition		Campaign funds
Campaign treasurer		Treasurer
Candidate		
Candidate's committee		Candidate committee; also see deletion of HRS section 11-197
Clearly identified		
Commission		
Commissioner		
Committee		
Contribution		
Earmarked funds		
Election		
Election period		
Expenditure		
House bulletin		
Immediate family		
Independent expenditure		
Individual		
Loan		
Matching payment period	Deleted	Contents placed in §11-94(f)
Newspaper		
Noncandidate committee		
Office		
NA - new definition		Other receipts
Party		
Person		
Political committees established and maintained by a national political party		
Private contributions	Deleted	See qualifying contribution definition
Residual or surplus funds	Deleted	
Qualifying campaign contribution		Qualifying contribution
Separate segregated fund	Deleted	
Special election		
Surplus funds	Deleted	
Terminate candidacy	Deleted	See termination of committee's registration (§11-P)
11-192, Campaign spending commission	§11-D	Campaign spending commission established; composition
11-192	§11-E	Terms of office

11-192	§11-F	No compensation
11-192.5, Commissioners; political activities	§11-I	Political activities prohibited
11-193 Duties of the commission		
11-193(a)(1) to (15)	§11-G	Duties of the commission
11-193(a)(4)	§11-CC	Sale or use of information
11-193(b), subpoena powers	§11-AAA	Subpoena powers
11-193(a)(16)	§11-H	Advisory opinions
11-193(c), exemptions	§11-J	Exemptions
11-194 Registration	§11-K	Registration of candidate committee or noncandidate committee
11-194(a)	§11-K(a)	
N/A new	§11-K(b)	
11-194(b)	§11-K(c)	
11-194(c)	§11-K(d)	
11-194(d)	§11-K(f)	
11-195 Filing of reports generally	§11-Q	Filing of reports, generally
11-195.5 Reporting deadline	§11-BB	
11-196 Organizational report, candidate's committee	§11-L	Organizational report, candidate committee
11-196.5 Organizational report, noncandidate committee	§11-M	Organizational report, noncandidate committee
11-197 Designated central committee	Deleted	
11-198 Campaign treasurer	§11-N	Treasurer
11-199 Campaign contributions, generally	§11-DD	Contributions, generally
11-199(b), re itemized record	§11-N(e)	
11-200, Campaign contributions, restrictions against transfer		
11-200(b)	§11-UU	Campaign funds used only for certain purposes
11-200(a)	§11-VV	Prohibited uses of campaign funds
11-200 (c (d)	§11-WW	Exceptions
11-200(e)	§11-UU(a)(5)	
11-201 Anonymous contributions; unlawful.	§11-FF	Anonymous contributions prohibited
11-202 False name	§11-EE	False name contributions prohibited
11-203 Fundraisers and fundraising activities	§11-AA	Fundraisers; notice of intent
11-203.5 Prohibition of fundraising on state or county property	§11-GG	Fundraising on state or county property prohibited
11-204 Campaign contributions; limits as to persons		
11-204(a)	§11-JJ	Contributions to candidate committees; limits
11-204(b)	§11-KK	Contributions to noncandidate committees; limits JUD reserved this section.
11-204(c); (d)	§11-LL	Family contributions
11-204(e)	§11-QQ	Excess contribution; return;

		escheat
11-204(f), (g)	§11-NN	Aggregation of contributions
11-204(h)	§11-O	Individual not serve as a committee officer in certain circumstances; committee prohibited from making contributions
11-204(i)	§11-II	Contributions by foreign national or foreign corporation prohibited
11-204(j)	§11-MM	Contributions to a political party
11-204(k)	§11-KK	Contributions to noncandidate committees; limits
11-204.5 Limit on contributions from nonresident individuals and persons	§11-OO	Contributions limited from nonresident persons JUD reserved this section.
11-205 Campaign contributions; limits as to political parties	§11-MM	Contributions to a political party
11-205.5 Campaign contributions by state and county contractors	§11-HH	Contributions by state and county contractors prohibited
11-205.6 Campaign contributions; loans	§11-RR	Loan to candidate committee
	§11-SS	Reporting loan; written loan agreement
	§11-TT	Noncandidate committee loan prohibited
11-206 Campaign contributions; restrictions as to surplus		
11-206(a)	11-TTT	Reserving use of contributions
11-206(b)	§11-VV	Prohibited uses of campaign funds
11-206(c)	§11-UU	Campaign funds used only for certain purposes
11-207 Other contributions and expenditures (a) to (c)	§11-PP	Other contributions and expenditures
11-207(d)	§11-V	Reporting expenditures
11-207.5 Late contributions; reports	§11-W	Late contributions; reports
11-207.6 Electioneering communications	§11-Z	Electioneering communications; statement of information
11-208 Voluntary campaign expenditure limits	§11-OOO	Voluntary expenditure limits; filing affidavit
11-209 Campaign expenditures; limits as to amounts	§11-OOO	Voluntary expenditure limits; filing affidavit
11-209(b)	§11-SSS	Candidate exceeds voluntary expenditure limit
11-210 Study and recommendation	§11-BBBB	Report and recommendation
11-211 House bulletins	§11-ZZ	House bulletins
11-212 Preliminary reports; 11-213 Final and supplemental reports	§11-R	Candidate committee reports
11-212, 11-213	§11-S	Time for candidate committee to file preliminary, final and supplemental reports
11-212, 11-213	§11-T	Noncandidate committee report
11-212, 11-213	§11-U	Time for filing noncandidate committee to file preliminary,

		final and supplemental reports
11-212(d) Short form report for committee receiving or expending \$2,000 or less		Deleted
11-212(e)	§11-X	Final election period report for committee receiving or expending \$1,000 or less
11-213(e) (see also section 11-191)	§11-P	Termination of committee's registration
11-213.5 Failure to file report; filing a substantially deficient or defective report	§11-Y	Failure to file report; filing a substantially deficient or defective report
11-214 Disposition of funds	§11-XX	Disposition of campaign funds; termination of registration
11-215 Advertising	§11-YY	Advertisements
11-216 Complaints, investigation, and notice; determination		
11-216(a)	§11-BBB	Filing of complaint
11-216(b)	§11-CCC	Notice of complaint; opportunity to explain or respond to complaint
11-216(b)	§11-DDD	Initial determination by the commission
11-216(c)	§11-EEE	Preliminary determination regarding probable cause
11-216(c)	§11-KKK	Criminal referral
11-216(d)	§11-GGG	Contested case hearing
11-216(e)	§11-HHH	Dismissal
11-216(g)	§11-III	Final determination of violation; order
11-216(g)	§11-FFF	Waiver of further proceedings
11-217 Hawaii election campaign fund; creation	§11-MMM	Hawaii election campaign fund; creation
11-217.5 Depletion of fund	§11-NNN	Depletion of fund
11-218 Candidate funding; amounts available		
11-218(a) - (d)	§11-RRR	Maximum amount of public funds available to candidate
11-218(e)	§11-TTT	Reserving use of contributions
11-219 Qualifying campaign contributions; amounts	§11-VVV	Minimum qualifying contribution amounts; qualifying contribution statement
11-220(b)(3) Eligibility for payments	§11- _TTT(2)(A)	Statement of intent
11-221 Entitlement to payments	§11-VVV	Minimum qualifying contribution amounts; qualifying contribution statement
11-221(b)	§11-UUU(1)	Qualified to be on the ballot; opposed by another candidate
11-222 Candidate funding; application	§11-WWW	Application for public funds
11-222	§11-XXX	Payment to candidate
11-222(a)	§11- UUU(2)(C)	Statement of qualifying contributions

11-222(a)	§11- UUU(2)(D)	Application for public funds
11-223 Candidate funding; restrictions	§11-YYY	Use of public funds
11-224 Public funds; report required; return of funds	§11-ZZZ	Post-election report required
11-225 Public funds; examination and audit; payments	§11-AAAA	Post-election examination and audit; return of funds
11-226 Tax deductions	§11-QQQ	Tax deduction for qualifying contributions
11-227 Public notices	Deleted	
11-228 Administrative fines; relief	§11-JJJ	Administrative fines; relief
11-229 Criminal prosecution	§11-LLL	Criminal prosecution



P.O. Box 22703 • Honolulu, Hawaii 96823 • (808) 286-2285 • info@commoncausehawaii.org

**House FIN Committee
Friday 2/27/09 at 4:00PM in Room 308
House Bill 215 HD1**

TESTIMONY

Nikki Love, spokesperson, Common Cause Hawaii

Chair Oshiro, Vice Chair Lee, and Committee Members,

I would like to provide **comments on HB 215 HD1** relating to campaign financing.

Regarding contributions by corporations: In light of the growing interest among the public and media in the corporate contributions issue, we urge you to insert language that would ban corporate campaign donations – prohibit corporations and other similar entities from donating from their treasuries to candidates and noncandidate committees. As you know, corporate donations to PACs and candidates are already well established in more than twenty states and at the federal level.

Regarding contributions by contractors: The HD1 appears to have weakened the restrictions on political donations from government contractors by narrowing the scope of those subject to the restriction. We urge you to restore the section to its form in the existing law and maintain a comprehensive restriction on the political donations of all contractors, not just those with no-bid contracts.

These two topics – corporate contributions and contractors' contributions – must be addressed if we hope to bolster public trust in government. Sadly, many citizens have become jaded and distrustful of our political system in large part due to past scandals involving undue influence and access.

But we can change that. Restrictions like these are an important tool in demonstrating to citizens that we are taking steps to prevent any corruption or special access in government. Furthermore, **campaign finance limitations like these help to shift the balance back in favor of citizen participation and away from the campaign dollar.**

Mahalo for your consideration.



AMERICANS FOR DEMOCRATIC ACTION

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February 26, 2009

TO: Chair Marcus Oshiro, Vice Chair Marilyn Lee
Members of the House Finance Committee

FROM: Barbara Polk, Legislative Chair
Americans for Democratic Action, Hawaii

SUBJECT: Comments on HB 215 HD 1

Chair Oshiro and Vice-Chair Lee and members of the committee. Thank you for this opportunity to testify on HB 215 HD1. We are pleased to see the improved organization and presentation of this important law. However, we wish to point out several areas of concern and suggestions for amendments.

1. With the apparent demise of HB 539 that would have raised the limit on direct corporate treasury contributions to PACs, some language must be inserted in HB 215. We urge you to bring Hawaii into line with the direction of the rest of the nation by inserting language prohibiting corporations from contributing to either candidates or PACs directly from their treasury.

The reasons for prohibiting campaign contributions by corporate entities and the like are:

- a) such contributions can lead to corruption or the appearance of corruption.
- b) money from corporate treasuries comes from corporate profits. Prices to consumers must be higher to provide those profits, while the candidates supported by a corporate entity may not be the same as that of the consumers, thereby forcing consumers to help fund candidates they do not support.
- c) corporate donations make it easy for individuals associated with corporations to bypass existing individual campaign contribution limits.
- d) corporate donations give the officers, directors, owners, or those in similar positions additional opportunities, beyond their own as individuals, to influence elections.

2. We urge you to amend Section 11-29 on p. 38 to require PACs to submit their preliminary report by July 31 of an election year—the same date as that required of candidates. (Of course PACs may form after that date, in which case they would file their reports on the remaining schedule.) This change is requested to allow the public to follow the money from an early stage in the election campaign, and well before the primary election.

3. Please delete the added language on p. 50 that would permit contractors with the state to contribute to campaigns if they were awarded the contract as part of a competitive process. The reasons for this are much the same as that in item 1. above, but raise the issue of possible corruption to a higher level.

4. We are confused by the extensive additions on pp. 56 and 57, but believe that the distinctions made are unnecessary if all corporate contributions are banned.

5. Finally, we urge you to amend lines 5-8 on p. 14 to read:

“Person” means an individual.

It is inappropriate to consider corporations, labor unions and other business entities as persons in election law since such entities can only participate through the actions of individuals—each of whom already has their own ability to act. Therefore, any granting of election rights to corporate entities gives preferential treatment to those individuals.

Corporate type entities can, of course, establish PACs to which they invite contributions from their owners, directors, and employees within the limits placed on individual donations to PACs.

Thank you for the opportunity to testify on this bill.



February 27, 2009

**TESTIMONY BEFORE THE HOUSE COMMITTEE ON FINANCE
ON HB 215 HD1 RELATING TO CAMPAIGN SPENDING**

Thank you Chair Oshiro and committee members. I am Gareth Sakakida, Managing Director of the Hawaii Transportation Association (HTA) which has 380 transportation related members throughout the state.

Hawaii Transportation Association strongly supports this bill.

An association has a duty to advance its members' viewpoints, especially in the legislative arena. An association and other entities should be permitted to expend resources that are necessary to accomplish this duty.

Legislators can understand there is little that can be done with \$1,000 per election period. Members themselves can make contributions, but many small business members lack the financial strength to participate to a great degree, thus they rely on their association's overall fiscal budgeting and prioritizing to serve the industry.

Thank you.

To: Representative Marcus Oshiro, Chair
Representative Marilyn Lee, Vice Chair
House Committee on Finance

From: Seth Corpuz-Lahne
103A Prospect St.
Honolulu, HI 96813

RE: Comments on HB 215, Relating to Campaign Finance

Hearing: Friday February 27, 2009
Conference Room 308
4:00 PM

Chair Oshiro, Vice-Chair Lee, members of the House Finance Committee, thank you for this opportunity to offer comments and suggest amendments on HB 215. Recently the House made the news for attempting to remove the cap on corporate campaign contributions, despite the fact that the Tavares Case is under appeal by the Campaign Spending Commission. House Judiciary decided to interfere with the legal process and amend HB 539 in such a way as can only be interpreted as fundamentally *against* the voters of Hawaii. In HB 215 there lies the potential to do the same. It is a voluminous and complex bill that seeks to recodify campaign spending laws in order to make them easier to understand, yet already the Judiciary committee has subverted this well-intentioned bill from the Campaign Spending Commission to set the stage for throwing open the doors to unlimited corporate contributions. All of you were elected by the people, not corporations, and the recent victory of President Obama proves that even at the national level it is possible to raise funds primarily from your constituency, and win.

If the Chair's inclination is to pass this bill, I propose that it be amended back to its original form or amended to state conclusively that corporate campaign contributions are improper and should not be allowed. Otherwise it may be best to await the decision on the pending *Tavares* appeal, rather than trying to legislate a court case. The people of Hawaii are watching the House for signs that our Representatives are looking out for *our* best interests, not the priorities of big spending corporations, whose only interest is their own bottom lines. Mahalo for your time and wisdom in this matter.