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**STATE OF HAWAII**  
**CAMPAIGN SPENDING COMMISSION**  
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HONOLULU, HAWAII 96813

April 9, 2009

TO: The Honorable Brian Taniguchi, Chair  
Senate Judiciary and Government Operations Committee

The Honorable Dwight Takamine, Vice-Chair  
Senate Judiciary and Government Operations Committee

Members of the Senate Judiciary and Government Operations Committee

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

**SUBJECT: Testimony on H.B. No. 128, HD 1, Proposed SD 1, Relating to Elections<sup>1</sup>**

April 9, 2009  
9:30 p.m. in Conference Room 016

Chair Taniguchi, Vice-Chair Takamine, and Members of the Senate Judiciary on Government Operations Committee (Committee), thank you for hearing this bill and the opportunity to testify on this bill.

This bill proposes to recodify the current campaign finance statutes, effective January 1, 2010. These provisions were included in S.B. No. 92 and H.B. No. 215, which were introduced at the Commission's request.<sup>2</sup>

We strongly support a recodification of the current statutes. Numerous amendments have been made to the statutes over the past thirty-six years in a piecemeal fashion and, apparently, with little regard to the laws as a whole. The statutes are unorganized, difficult to read, and inconsistent in some areas.

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<sup>1</sup> This bill is a single referral to this Committee. H.B. No. 128, H.D. 1 proposed to require the office of elections to create and make available a standard withdrawal and declaration of candidacy form; make nomination papers available only until the Friday preceding the filing deadline; and establish required availability and filing deadlines for nomination papers in the event that no candidates have validly filed nomination papers for an elective office by the original filing deadline.

<sup>2</sup> HB No. 215 was passed by JUD and FIN, but recommitted to FIN.

We also provide our comments and recommendations for consideration.

- This bill does **not** amend the contribution limits in the current law,<sup>3</sup> including the limits applicable to corporations and companies. The Committee may want to consider adding language (e.g., the bill's purpose section, elsewhere in the bill, and/or committee report) to clarify that the enactment of the same language that is in the current statute regarding corporate contributions is not intended to affect the pending appellate decision.
- We recommend that the Committee clarify that the Commission has discretion in determining fine amounts for campaign spending violations.
- We recommend that the Committee amend the definition of electioneering communications" in §11-\_34 to retain the definition in current law.
- We discuss in our testimony several attempts in the 2009 session by the House and Senate to address the issue regarding nonresident contributions in §11-\_51; the Commission also submitted S.B. 93 regarding that issue and this bill was heard by the Committee.
- The Committee should carefully consider the proposal in §11-\_58 (4), regarding "donations to any public school or library" as the purpose of campaign contributions are to influence an election.

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**§11-204 Campaign contributions; limits as to persons.**

(a)(1) No person or any other entity shall make contributions to:

(A) A candidate seeking nomination or election to a two-year office or to the candidate's committee in an aggregate amount greater than \$2,000 during an election period;

(B) A candidate seeking nomination or election to a four-year statewide office or to the candidate's committee in an aggregate amount greater than \$6,000 during an election period; and

(C) A candidate seeking nomination or election to a four-year nonstatewide office or to the candidate's committee in an aggregate amount greater than \$4,000 during an election period.

These limits shall not apply to a loan made to a candidate by a financial institution in the ordinary course of business;

(2) For purposes of this section, the length of term of an office shall be the usual length of term of the office as unaffected by reapportionment, a special election to fill a vacancy, or any other factor causing the term of the office the candidate is seeking to be less than the usual length of term of that office.

(b) No person or any other entity shall make contributions to a noncandidate committee, in an aggregate amount greater than \$1,000 in an election.

**§11-\_46 Contributions to candidate committees; limits.**

(a) No person shall make contributions to:

(1) A candidate seeking nomination or election to a two-year office or to a candidate committee in an aggregate amount greater than \$2,000 during an election period;

(2) A candidate seeking nomination or election to a four-year nonstatewide office or to a candidate committee in an aggregate amount greater than \$4,000 during an election period; and

(3) A candidate seeking nomination or election to a four-year statewide office or to a candidate committee in an aggregate amount greater than \$6,000 during an election period.

(b) For purposes of this section, the length of term of an office shall be the usual length of term of the office as unaffected by reapportionment, a special election to fill a vacancy, or any other factor causing the term of the office the candidate is seeking to be less than the usual length of term of that office.

**§11-\_47 Contributions to noncandidate committees; limits.** 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.

## I. CORPORATE CONTRIBUTIONS

Section 7 of Act 203, SLH 2005, amended section 11-204, Hawaii Revised Statutes, to read as follows:

"§11-204 Campaign contributions; limits as to persons.

(a)(1) No person or any other entity shall make contributions to:

(A) A candidate seeking nomination or election to a two-year office or to the candidate's committee in an aggregate amount greater than \$2,000 during an election period;

(B) A candidate seeking nomination or election to a four-year statewide office or to the candidate's committee in an aggregate amount greater than \$6,000 during an election period; and

(C) A candidate seeking nomination or election to a four-year nonstatewide office or to the candidate's committee in an aggregate amount greater than \$4,000 during an election period.

These limits shall not apply to a loan made to a candidate by a financial institution in the ordinary course of business[-];

(2) For purposes of this section, the length of term of an office shall be the usual length of term of the office as unaffected by reapportionment, a special election to fill a vacancy, or any other factor causing the term of the office the candidate is seeking to be less than the usual length of term of that office.

*(b) No person or any other entity shall make contributions to a noncandidate committee, in an aggregate amount greater than \$1,000 in an election[- except that in the case of a corporation or company using funds from its own treasury, there shall be no limit on contributions or expenditures to the corporation or company noncandidate committee].*

...

### **Tavares litigation**

The Commission, based upon the change in the law, enforced a \$1,000 contribution limit from a corporation or company to its noncandidate committee during the primary election and \$1,000 during the general election. The enforcement of the law was challenged by the Charmaine Tavares Campaign and a contributor to her campaign.

The Second Circuit Court (lower court) filed a Final Declaratory Judgment on August 10, 2007 in Charmaine Tavares Campaign v. Wong , Civil No. 06-1-0430(3). The Court ruled that corporations and other business entities may make contributions from their treasuries directly to candidates and candidate committees under HRS §11-204(a)(1)(C) without registering with the Commission and filing periodic reports.

The Commission appealed the lower court's decision and filed its Opening brief on January 16, 2008 and its Reply Brief on February 28, 2008 with the Intermediate Court of Appeals.

**Proposed language**

While this is the Senate's first attempt in 2009 to address the corporate contribution issue, we note that there have been two unsuccessful attempts in 2009 in the House to address the issue. In order to avoid deadlock on this issue, we propose language to clarify that the enactment of the same language that is in the current statute regarding corporate contributions is not intended to affect the pending appellate decision. The language below could be included in the bill's purpose section and/or committee report.

"The purpose of this Act is to update, organize, and clarify the current campaign finance statutes and make minor substantive changes. Specifically, section §11-47 (11-JJ) includes the same language, relating to contributions by corporations and companies that is in issue in Charmaine Tavares Campaign v. Wong, Civil No. 06-1-0430(3). The lower court ruled therein that corporations and companies may make contributions from their treasuries directly to candidates and candidate committees pursuant to HRS §11-204(a)(1) without registering with the Commission and filing periodic reports. It is the Legislature's understanding that the commission has appealed the lower court's decision and that the commission is not enforcing registration and reporting requirements for corporations and companies contributing directly from their treasuries to candidates and candidate committees. By using the same language in this Act that is in the current statute, it is the Hawaii State Legislature's intention to abide by the commission's decision pending a final decision by the Hawaii appellate courts. The Legislature is not affirming or overruling the lower court's decision, but merely awaiting a final decision by the Hawaii appellate courts regarding contributions by corporations and companies which would be applicable under the prior statute and this Act. A final decision by the Hawaii appellate courts shall not affect the Legislature's ability to amend this Act, including the statute regarding contributions by corporations and companies."

**II. CLARIFY THAT THE COMMISSION HAS DISCRETION IN DETERMINING FINE AMOUNTS FOR CAMPAIGN SPENDING VIOLATIONS**

Section 23 of Act 244, SLH 2008, added a new section which increased late-filing penalties and provided a cap on the penalties. This section was codified in HRS §11-193.5.

Section 25 of Act 244 amended HRS §11-193 to expressly state in regard to late-filed reports that "a penalty may be assessed" by the Commission.

To clarify that the Commission has discretion in determining fine amounts for campaign spending violations, we recommend that the Committee make several changes (many of these changes were included in HB 215, HB 215, HD1 and HB215, HD2) and that these changes be retroactive to July 1, 2008, the effective date of Act 244.

**§11-33 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 ~~shall~~ 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, if assessed, 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]~~ and shall not 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~~ if assessed, may be \$300 per day~~[-not to]~~ and shall not 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, if assessed, 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]~~ and shall not 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.

**§11-79 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, [~~whichever 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.

### III. AMEND THE DEFINITION OF "ELECTIONEERING COMMUNICATIONS" IN §11-34 (i.e., retain the definition in current law)

The proposed amendment in the definition of "electioneering communication" in §11-34 would read, in ramseyer format, as follows:

"Electioneering communication" means any advertising:

- (1) (A) Broadcast from a cable, satellite, television, or radio broadcast station;  
(B) Published in any periodical or newspaper; or  
(C) Sent by mail at a bulk rate;
- (2) That refers to a clearly identifiable candidate; [~~and~~]
- (3) [~~Is made,~~ Made, or scheduled to be made, either within thirty days prior to a primary or initial special election or within sixty days prior to a general or special election[-]; and
- (4) That is susceptible of no 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 any political party, political committee, or candidate;
- (2) That constitute expenditures by the disbursing organization;
- (3) In 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.

We request that the Committee **not** make this change, based upon a pending decision by the U.S. Supreme Court in Citizens United v. Federal Election Commission, Docket No. 08-205, which was argued on March 24, 2009, that will likely impact this section of the law.

#### IV. NONRESIDENT CONTRIBUTIONS

HRS §11-204.5 provides a 20% cap on contributions from nonresident individuals and persons (except for a member of the candidate's immediate family) to a candidate during each reporting period.

SB. No. 93 and H.B. No. 217 were introduced at the Commission's request because of administrative difficulties with this provision. For example, candidates must closely track contributions from nonresident persons and contributions from resident persons to ensure the cap is not exceeded. The difficulties are compounded because the cap is applicable to each reporting period and some reporting periods are only for a two-week period. Both S.B. 93 and H.B. No. 217 proposed adding a seven-day grace period as follows:

(b) If the candidate or candidate's committee returns or refunds a contribution or contributions that exceed twenty per cent of the total contributions received during a reporting period within seven days of the last day of the reporting period, the candidate and candidate committee shall not be in violation of this section.

This Committee held a hearing on S.B. No. 93 and adopted a S.D. 1 which amends the law as follows:<sup>4</sup>

**"§11-204.5 Limit on contributions from nonresident individuals and persons.** (a) Contributions from all persons, except for a member of the candidate's immediate family, who are not 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.

(b) If the candidate or candidate's committee returns or refunds a contribution or contributions that exceed \_\_\_\_\_ per cent of the total contributions received during a reporting period within seven days of the last day of the reporting period, the candidate and candidate committee shall not be in violation of this section."

Both House Committees also proposed amending this section in HB No. 215. The HD 2 provides as follows:

**§11-OO Contributions limited from nonresident persons.**

(a) Contributions from all persons who are not residents of the state at the time the contributions are made, shall not exceed twenty per cent of the total contributions received by a candidate or candidate committee for each two-year election period.

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<sup>4</sup> This bill was referred to JUD, but a hearing was not scheduled on the bill.

(b) This section shall not be applicable to contributions from the candidate's immediate family.

(c) If the candidate or candidate's committee returns or refunds a contribution or contributions that exceed twenty per cent of the total contributions received during a reporting period within thirty days of the last day of the reporting period for the two-year election period, the candidate and candidate committee shall not be in violation of this section.<sup>5</sup>

**V. 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.

This bill 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.

The table below lists the sections in the current law and this bill. By skimming the sections in the bill 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 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 – table of contents
§ 11-191 Definitions	<i>Subpart A Declaration of Policy; Definitions</i>
§ 11-192 Campaign spending commission	§11-__1 Declaration of policy
§ 11-192.5 Commissioners; political activities	§11-__2 Construction
§ 11-193 Duties of the commission	§11-__3 Definitions
§ 11-194 Registration	<i>Subpart B Campaign Spending Commission</i>
§ 11-195 Filing of reports, generally	§11-__5 Campaign spending commission established; composition
§ 11-195.5 Reporting deadline	§11-__6 Terms of office
§ 11-196 Organizational report, candidate's committee	§11-__7 No compensation
§ 11-196.5 Organizational report, noncandidate committee	§11-__8 Duties of the commission
§ 11-197 Designated central committee	§11-__9 Advisory opinions
§ 11-198 Campaign treasurer	§11-__10 Political activities prohibited
§ 11-199 Campaign contributions, generally	§11-__11 Exemptions
§ 11-200 Campaign contributions; restrictions against	

<sup>5</sup> There are technical problems with this language; if the Committee decides to adopt this approach we will provide the appropriate language to the Committee.



<p>transfer</p> <p>§ 11-201 Anonymous contributions; unlawful</p> <p>§ 11-202 False name</p> <p>§ 11-203 Fundraisers and fundraising activities</p> <p>§ 11-203.5 Prohibition of fundraising on state or county property</p> <p>§ 11-204 Campaign contributions; limits as to persons</p> <p>§ 11-204.5 Limit on contributions from nonresident individuals and persons</p> <p>§ 11-205 Campaign contributions; limits as to political parties</p> <p>§ 11-205.5 Campaign contributions by state and county contractors</p> <p>§ 11-205.6 Campaign contributions; loans</p> <p>§ 11-206 Campaign contributions; restrictions as to surplus</p> <p>§ 11-207 Other contributions and expenditures</p> <p>§ 11-207.5 Late contributions; reports</p> <p>§ 11-207.6 Electioneering communications</p> <p>§ 11-208 Voluntary campaign expenditure limitation</p> <p>§ 11-209 Campaign expenditures; limits as to amounts</p> <p>§ 11-210 Study and recommendation</p> <p>§ 11-211 House bulletins</p> <p>§ 11-212 Preliminary reports</p> <p>§ 11-213 Final and supplemental reports</p> <p>§ 11-213.5 Failure to file report; filing a substantially defective or deficient report</p> <p>§ 11-214 Disposition of funds</p> <p>§ 11-215 Advertising</p> <p>§ 11-216 Complaints, investigation, and notice; determination</p> <p>§ 11-217 Hawaii election campaign fund; creation</p> <p>§ 11-217.5 Depletion of fund</p> <p>§ 11-218 Candidate funding; amounts available</p> <p>§ 11-219 Qualifying campaign contributions; amounts</p> <p>§ 11-220 Eligibility for payments</p> <p>§ 11-221 Entitlement to payments</p> <p>§ 11-222 Candidate funding; application</p> <p>§ 11-223 Candidate funding; restrictions</p> <p>§ 11-224 Public funds; report required; return of funds</p> <p>§ 11-225 Public funds; examination and audit; payments</p> <p>§ 11-226 Tax deductions</p> <p>§ 11-227 Public notices</p> <p>§ 11-228 Administrative fines; relief</p> <p>§ 11-229 Criminal prosecution</p>	<p><i>Subpart C Registration with the Commission</i></p> <p>§11-_15 Registration of candidate committee or noncandidate committee</p> <p>§11-_16 Organizational report, candidate committee</p> <p>§11-_17 Organizational report, noncandidate committee</p> <p>§11-_18 Treasurer</p> <p>§11-_19 Individual not serve as a committee officer in certain circumstances; committee prohibited from making contributions</p> <p>§11-_20 Termination of committee's registration</p> <p><i>Subpart D Reporting and filing with the Commission</i></p> <p>§11-_25 Filing of reports, generally</p> <p>§11-_26 Candidate committee reports</p> <p>§11-_27 Time for candidate committee to file preliminary, final and supplemental reports</p> <p>§11-_28 Noncandidate committee reports</p> <p>§11-_29 Time for noncandidate committee to file preliminary, final and supplemental reports</p> <p>§11-_30 Reporting expenditures</p> <p>§11-_31 Late contributions; report</p> <p>§11-_32 Final election period report for committee receiving or expending \$1,000 or less during the election period</p> <p>§11-_33 Failure to file report; filing a substantially defective or deficient report</p> <p>§11-_34 Electioneering communications; statement of information</p> <p>§11-_35 Fundraiser; notice of intent</p> <p>§11-_36 Reporting deadline</p> <p>§11-_37 Sale or use of information</p> <p><i>Subpart E Contributions; prohibitions; limits</i></p> <p>§11-_40 Contributions, generally</p> <p>§11-_41 False name contributions prohibited</p> <p>§11-_42 Anonymous contributions prohibited</p> <p>§11-_43 Fundraising on state or county property prohibited</p> <p>§11-_44 Contributions by state and county contractors prohibited</p> <p>§11-_45 Contributions by foreign national or foreign corporation prohibited</p> <p>§11-_46 Contributions to candidate committees; limits</p> <p>§11-_47 Contributions to noncandidate committees; limits</p> <p>§11-_48 Family contributions</p> <p>§11-_49 Contributions to a party</p> <p>§11-_50 Aggregation of contributions and expenditures</p> <p>§11-_51 Contributions limited from nonresident persons</p> <p>§11-_52 Other contributions and expenditures</p> <p>§11-_53 Excess contribution; return; escheat</p> <p><i>Subpart F Loans</i></p> <p>§11-_55 Loan to candidate committee</p> <p>§11-_56 Reporting loan; written loan agreement</p> <p>§11-_57 Noncandidate committee loans prohibited</p> <p><i>Subpart G Expenditures</i></p>
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	<p>§11-_58 Campaign funds used only for certain purposes</p> <p>§11-_59 Prohibited uses of campaign funds</p> <p>§11-_60 Exceptions</p> <p>§11-_61 Disposition of campaign funds; termination of registration</p> <p style="text-align: center;"><i>Subpart H Advertisements</i></p> <p>§11-_65 Advertisements</p> <p>§11-_66 House bulletins</p> <p style="text-align: center;"><i>Subpart I Enforcement</i></p> <p>§11-_70 Subpoena powers</p> <p>§11-_71 Filing of complaint</p> <p>§11-_72 Notice of complaint; opportunity to explain or respond to complaint</p> <p>§11-_73 Initial determination by the commission</p> <p>§11-_74 Preliminary determination regarding probable cause</p> <p>§11-_75 Waiver of further proceedings</p> <p>§11-_76 Contested case hearing</p> <p>§11-_77 Dismissal</p> <p>§11-_78 Final determination of violation; order</p> <p>§11-_79 Administrative fines; relief</p> <p>§11-_80 Criminal referral</p> <p>§11-_81 Criminal prosecution</p> <p style="text-align: center;"><i>Subpart J Partial public financing</i></p> <p>§11-_85 Hawaii election campaign fund; creation</p> <p>§11-_86 Depletion of fund</p> <p>§11-_87 Voluntary expenditure limits; filing affidavit</p> <p>§11-_88 Reduced filing fee</p> <p>§11-_89 Tax deduction for qualifying contributions</p> <p>§11-_90 Maximum amount of public funds available to candidate</p> <p>§11-_91 Candidate exceeds voluntary expenditure limits</p> <p>§11-_92 Reserving use of contributions</p> <p>§11-_93 Eligibility requirements for public funds</p> <p>§11-_94 Minimum qualifying contribution amounts; qualifying contribution statement</p> <p>§11-_95 Application for public funds</p> <p>§11-_96 Payment to candidate</p> <p>§11-_97 Use of public funds</p> <p>§11-_98 Post-election report required</p> <p>§11-_99 Post-election examination and audit; return of funds</p> <p>§11-_100 Report and recommendation</p>
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AMERICANS FOR DEMOCRATIC ACTION

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April 7, 2009

TO: Chair Brian Taniguchi, Dwight Takamine Vice-Chair and Members of the Senate Judiciary and Government Operations Committee

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

RE: COMMENTS ON HB 128 PROPOSED SD 1

Chair Taniguchi, Vice-Chair Takamine and members of the Judiciary Committee. Thank you for the opportunity to testify on this bill.

Americans for Democratic Action/Hawaii is pleased to support the recodification of the Hawaii Elections Laws, something that has been badly needed to make them more accessible to all participants. We do, however, have some concerns with the bill as it stands.

We are glad to see that you have left the cap on corporate contributions at \$1000. However, we urge you to eliminate corporate contributions to political campaigns altogether. This can be done with the following amendment:

**11-46. (a) No corporation, partnership, limited liability company, limited liability partnership, financial institution or any other entity engaged in business or any union shall make any contribution from its treasury directly to a candidate, candidate's committee, or non-candidate committee.**

**[Currently proposed sections (a) and (b) to be renumbered to (b) and (c).]**

As we have stated previously at hearings over the past two years, there is no reason to give the executives and boards of these organizations an additional opportunity to influence elections beyond that held by any individual. Because a corporation can only donate from its treasury through the actions of its board members, directors, or executives, it gives those individuals a disproportionate influence on elections. While it is true that corporations have interests in legislation, those interests can be pursued through the donations of their board members, directors or executives.

We would also like to point out that "accountability" for, or "transparency" of, corporate contributions is not relevant if there are none.

Secondly, we are concerned with the changes being made to allow substantially greater

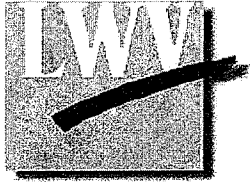
contributions from campaign funds to schools, libraries and charities. It is ironic that for three years legislators have told us that they must have corporate funds to be able to afford to run a campaign, but now we see that legislators may have substantial amounts of “left-over” funds!

No one agrees with any single candidate on all matters. Donations are made to election campaigns with the intent that they be used to help elect the candidate. When donated money is, in turn, given by a legislator to a charity, it becomes a forced individual donation that may not go to a charity supported by the individuals who donated the money to the campaign, and in any case, the original donor is not acknowledged. Instead, the legislator is acknowledged for giving away money that is not his or her own.

We urge legislators to show their support for schools and libraries by funding them appropriately through the legislative process, and by making donations from personal finances to favorite charities, the way the rest of us do.

Please delete these changes and return the provisions to the wording submitted by the Campaign Finance Commission.

Thank you for this opportunity to testify.



# THE LEAGUE OF WOMEN VOTERS OF HAWAII

## TESTIMONY ON HB128, H.D.1, S.D.1 PROPOSED RELATING TO ELECTIONS

committee on Judiciary and Government Operations  
Thursday, April 9, 2009  
10:00 a.m.  
Conference Room 016

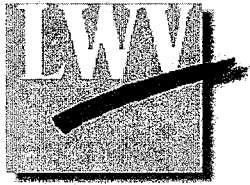
Testifier: Jean Aoki, LWV Legislative Liaison

Chair Taniguchi, Vice Chair Takamine, members of JGO,

The League of Women Voters, while supporting the original intent of a bill, the contents of which have replaced the contents of HB128, has serious concerns about some of the amended provisions in the present bill. Two good bills, one to correct some of the election laws which were found wanting in the Elections of 2008, and the reorganization of the campaign spending laws have been held hostage to the need for some vehicle to push forward some unwise policies.

Chapter 11 – section \_86, Depletion of Funds (a) states, “The Commission shall be under no obligation to provide moneys to candidates unless there are two years of budgeted expenses in reserve in the Hawaii Election Campaign Fund.” Assuming that the budgeted expenses referred to in the above sentence does not include an estimate of money needed to fund any election campaigns, we would be safe to assume that the purpose of the Election Campaign Fund has been changed now to that of paying for all of the expenses of the Campaign Spending Commission.---- that the purpose for which the fund was established is secondary to the needs of th CSC. The sole purpose of the Election Campaign Fund when it was established was the financing of the public-funding of election campaigns.

There is an obvious conflict of interest in the CSC's financial viability being dependent on the amount left in the Fund. It would be very difficult for the CSC to support any expansion of public funding of election campaigns. The law supports their main concern for the husbanding of the funds to cover the operating and staffing expenses of the commission. We're afraid that as long as the expenses of the CSC are paid from the Election Campaign Funds, this conflict will continue.



## THE LEAGUE OF WOMEN VOTERS OF HAWAII

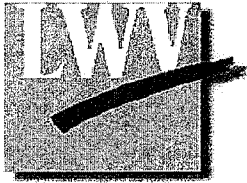
We, of course, support the adequate funding of the CSC. We need the commission and its staff to enforce the campaign spending laws. Our concern is with the funding mechanism.

Adding to our worries about this fund is the provision in SB 884, SD2, HD1(proposed) which would transfer the interest on the money in the Election Campaign Fund to the general fund beginning in July 1, 2009 through June 30, 2015. The interest on the money in the fund is not excess money. It is money badly needed for the purpose for which the fund was established.

Another serious concern is with Chapter 11-58 Campaign Funds Only Used for Certain Purposes on page 34-35 which addresses charitable contributions from campaign funds. Subsection (3) doubles the amounts that candidates can donate to charitable causes, and subsection (4) expands charitable contributions further by allowing unlimited contributions to public schools and libraries.

Admittedly, most of these are all worthwhile causes, worthy of community support, and many of them have grown to depend on these donations from campaign chests to meet their budgetary needs. It has long been our conviction, that donations to community groups and institutions from election campaign funds do not really qualify as legitimate uses of such funds. While part of campaigning is the developing of good will toward the candidate, this can be achieved in ways other than by donations from campaign funds.

The implications of using donations as a campaign tactic is mostly negative. It is construed as seeding the community – a form of vote buying. When a candidate outfits a whole high school band with uniforms, the favorable publicity reverberates through the community-- in the PTA bulletins, in the high school paper, in word-of-mouth communications by grateful parents, etc., With little effort, an



## THE LEAGUE OF WOMEN VOTERS OF HAWAII

incumbent in a position to attract enormous amounts of contributions, can make supporters of a major proportion of his/her constituency.

Also, it is unfair. Those incumbents who are in a position to attract maximum contributions can donate more than others with leaner campaign chests. First time challengers are really put at a disadvantage unless they have money of their own to use.

Another negative impact is the need to raise more and more campaign funds as the cost of campaigning rises with the changes incorporated in this bill. I doubt that many legislators relish the soliciting of campaign contributions, but when groups that have become dependent on your generosity count on you to come through every year, how can you refuse?

It is easier to not start something that may be difficult to control, than to stop it at some future point. Let's stop the escalation of campaign costs. Do not let the chase for funds leave you with little time to communicate with the voters and sell them on your ideas, your plans for the community and the state, and learn about their needs and expectations.

Thank you for this opportunity to testify on HB 128, HD1, SD1, proposed.

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**From:** Davin Kubota [davinkubota@gmail.com]  
**Sent:** Wednesday, April 08, 2009 7:25 AM  
**To:** JGO Testimony  
**Subject:** HB128

Dear Chair Taniguchi, Vice Chair Takamine, and Committee Members:

I am very concerned about Hawaii's campaign finance laws and would like to submit comments on two topics in House Bill 128, Proposed SD1.

First, I am concerned about the influence of special interest money in our political system. Thank you for NOT lifting the limit on corporate contributions in this proposed draft. We can wait for the courts to decide the issue, or we could clarify this now and ensure Hawaii does not move backward on this issue. I urge the Committee to insert language that would prohibit corporations from donating funds from their treasuries to campaigns, either directly to candidates or via PACs.

Second, this proposed draft loosens the restrictions on donating from campaign funds to schools, libraries, and other groups. Incumbents' campaign funds should not be used to "seed" the community and curry favor with community groups. Political campaigns should not be the gatekeeper for philanthropy, and recent history has shown it can lead to abuse. I urge you to maintain the current restrictions on proper use of campaign funds.

Thank you for the opportunity to submit testimony.

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**From:** Will Best [willbest@earthlink.net]  
**Sent:** Wednesday, April 08, 2009 7:10 AM  
**To:** JGO Testimony  
**Subject:** Testimony for HB128, Senate JGO, 4/9/09 at 10am

Dear Chair Taniguchi, Vice Chair Takamine, and Committee Members::

I would like to submit two comments about House Bill 128, Proposed SD1. I am interested in Hawaii's campaign finance laws, and find myself concerned with a couple of issues.

First, I am concerned about the influence of special interest money in our political system. I appreciate that SD1 does NOT lift the limit on corporate contributions in this proposed draft. We can wait for the courts to decide the issue, but I believe we should clarify this now and ensure Hawaii does not move backward on this issue. I urge the Committee to insert language that would prohibit corporations from donating funds from their treasuries to campaigns, either directly to candidates or via PACs.

Second, this proposed draft loosens the restrictions on donating from campaign funds to schools, libraries, and other groups. Incumbents' campaign funds should not be used to "seed" the community and curry favor with community groups. In Hawaii in recent years, several incumbents have done this to embarrassing extents. Political campaigns should not be the gatekeeper for philanthropy. I urge you to maintain the current restrictions on proper use of campaign funds.

Thank you for the opportunity to submit testimony.

Sincerely,

Will Best

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782-0027