

JAN 29 2015

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# A BILL FOR AN ACT

RELATING TO CAMPAIGN SPENDING.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The legislature finds that additional  
2 disclosure of information regarding election campaign  
3 contributions and expenditures is necessary due to the decision  
4 of *Citizens United v. Federal Election Commission*, 558 U.S. 310  
5 (2010), and subsequent case law. These decisions have led to  
6 the proliferation of SuperPACs, which are noncandidate  
7 committees that make only independent expenditures, and their  
8 virtually unlimited spending in the political arena. Hawaii's  
9 experience in the two election cycles since *Citizens United* has  
10 been as predicted: numerous SuperPACs have been formed, enormous  
11 amounts of money have been expended, and many of the true  
12 contributors remain hidden from the public.

13           *Citizens United* assumed meaningful disclosure so that "the  
14 electorate [can] make informed decisions and give proper weight  
15 to different speakers and messages." However, Hawaii's  
16 disclosure requirements for SuperPACs are inadequate to provide  
17 the electorate with information showing the true source or



1 recipient of the funds behind efforts seeking to influence their  
2 vote. The contribution trail is obscured because current law  
3 requires only that the name of the first level of contributor to  
4 or recipient of a contribution made by the SuperPAC be reported  
5 on filings with the State campaign spending commission. Often  
6 the first level of contributor or recipient is another SuperPAC  
7 and as the names of SuperPACs are frequently meaningless or  
8 misleading, disclosure laws aimed at transparency are  
9 circumvented. For example, in the 2014 election cycle,  
10 contributions totaling around \$8,000,000 were received by  
11 twenty-nine SuperPACs registered in Hawaii. Two of the top ten  
12 SuperPACs in Hawaii received contributions solely from other  
13 SuperPACs, which included a \$2.2 million contribution from an  
14 entity that is not required to report in Hawaii. Also, three of  
15 the top ten SuperPACs in Hawaii were registered at the same  
16 address, made contributions amongst each other, and the origin  
17 of their funds are entities with unknown contributors.

18 The legislature finds that the State's campaign finance  
19 laws must be amended in order to increase transparency and  
20 accountability, deter corruption, and strengthen confidence in  
21 the election process by providing public access to information



1 about who is the true source or recipient of campaign  
2 contributions made to or by SuperPACs.

3 The purpose of this Act is to require SuperPACs to report,  
4 for contributions received from or made to an entity that is not  
5 an individual or business, whether the entity is subject to any  
6 state or federal disclosure reporting requirements and to  
7 provide the internet address where that entity's report can be  
8 accessed or, alternatively, the name, address, occupation, and  
9 employer of each funding source to that entity.

10 SECTION 2. Section 11-323, Hawaii Revised Statutes, is  
11 amended by amending subsection (a) to read as follows:

12 "(a) The noncandidate committee organizational report  
13 shall include:

14 (1) The committee's name, which shall incorporate the full  
15 name of the sponsoring entity, if any. An acronym or  
16 abbreviation may be used in other communications if  
17 the acronym or abbreviation is commonly known or  
18 clearly recognized by the general public. The  
19 committee's name shall not include the name of a  
20 candidate;



- 1           (2) The committee's address, including web page address,  
2           if any;
- 3           (3) The area, scope, or jurisdiction of the committee;
- 4           (4) The name and address of the committee's sponsoring  
5           entity. If the committee does not have a sponsoring  
6           entity, the committee shall specify the trade,  
7           profession, or primary interest of contributors to the  
8           committee;
- 9           (5) The name, address, telephone number, occupation, and  
10          principal place of business of the chairperson;
- 11          (6) The name, address, telephone number, occupation, and  
12          principal place of business of the treasurer and any  
13          other officers;
- 14          (7) An indication as to whether the committee was formed  
15          to support or oppose a specific ballot question or  
16          candidate and, if so, a brief description of the  
17          question or the name of the candidate;
- 18          (8) An indication as to whether the committee is a  
19          political party committee;



- 1 (9) The name, address, telephone number, occupation, and  
2 principal place of business of the custodian of the  
3 books and accounts;
- 4 (10) The name and address of the depository institution in  
5 which the committee will maintain its campaign account  
6 and each applicable account number;
- 7 (11) A certification by the chairperson and treasurer of  
8 the statements in the organizational report; and
- 9 (12) The name, address, employer, and occupation of each  
10 contributor who contributed an aggregate amount of  
11 more than \$100 to the noncandidate committee since the  
12 last election and the amount and date of deposit of  
13 each such contribution[-]; provided that, for  
14 noncandidate committees making only independent  
15 expenditures, if a contribution is received from an  
16 entity other than an individual, partnership,  
17 corporation, business entity, or labor union, then the  
18 report shall state whether the contributing entity is  
19 subject to any state or federal disclosure reporting  
20 requirements concerning the contribution and:



1            (A) The internet address where the contributing  
2            entity's disclosure report can be publicly  
3            accessed; or

4            (B) The name, address, occupation, and employer of  
5            each funding source of \$100 or more to that  
6            contributing entity."

7            SECTION 3. Section 11-335, Hawaii Revised Statutes, is  
8 amended by amending subsection (b) to read as follows:

9            "(b) Schedules filed with the reports shall include the  
10 following additional information:

11           (1) The amount and date of deposit of each contribution  
12 received and the name, address, occupation, and  
13 employer of each contributor making a contribution  
14 aggregating more than \$100 during an election period,  
15 which was not previously reported; provided that if  
16 [~~all~~]:

17           (A) All the information is not on file, the  
18            contribution shall be returned to the contributor  
19            within thirty days of deposit; and

20           (B) A noncandidate committee making only independent  
21            expenditures receives a contribution from an



1           entity other than an individual, partnership,  
2           corporation, business entity, or labor union,  
3           then a schedule shall state whether the  
4           contributing entity is subject to any state or  
5           federal disclosure reporting requirements  
6           concerning the contribution and:

7           (i) The internet address where the contributing  
8           entity's disclosure report can be publicly  
9           accessed; or

10          (ii) The name, address, occupation, and employer  
11          of each funding source that contributed \$100  
12          or more in the aggregate to that  
13          contributing entity;

14          (2) The amount and date of each contribution made and the  
15          name and address of the candidate, candidate  
16          committee, or noncandidate committee to which the  
17          contribution was made; provided that, for a  
18          noncandidate committee making only independent  
19          expenditures, the schedule shall state whether the  
20          recipient entity of the contribution is subject to any



1 state or federal disclosure reporting requirements  
2 concerning the contribution and:

3 (A) The internet address where the recipient entity's  
4 disclosure report can be publicly accessed; or

5 (B) The name, address, occupation, and employer of  
6 each funding source of more than \$100 in the  
7 aggregate to that recipient entity;

8 (3) All expenditures, including the name and address of  
9 each payee and the amount, date, and purpose of each  
10 expenditure; provided that:

11 (A) Expenditures for advertisements or electioneering  
12 communications shall include the names of the  
13 candidates supported, opposed, or clearly  
14 identified;

15 (B) Expenditures for consultants, advertising  
16 agencies and similar firms, credit card payments,  
17 salaries, and candidate reimbursements shall be  
18 itemized to permit a reasonable person to  
19 determine the ultimate intended recipient of the  
20 expenditure and its purpose;



1 (C) Independent expenditures shall include the name  
2 of any candidate supported, opposed, or clearly  
3 identified; and

4 [†] (D) [†] The purpose of an independent expenditure  
5 shall include the name of the candidate who is  
6 supported or opposed by the expenditure, and  
7 whether the expenditure supports or opposes the  
8 candidate;

9 (4) For noncandidate committees making only independent  
10 expenditures, certification that no expenditures have  
11 been coordinated with a candidate, candidate  
12 committee, or any agent of a candidate or candidate  
13 committee;

14 (5) The amount, date of deposit, and description of other  
15 receipts and the name and address of the source of  
16 each of the other receipts;

17 (6) A description of each durable asset, the date of  
18 acquisition, value at the time of acquisition, and the  
19 name and address of the vendor or contributor of the  
20 asset; and



1 (7) The date of disposition of a durable asset, value at  
2 the time of disposition, method of disposition, and  
3 name and address of the person receiving the asset."

4 SECTION 4. Section 11-338, Hawaii Revised Statutes, is  
5 amended by amending subsection (b) to read as follows:

6 "(b) The late contribution report shall include the  
7 following information:

8 (1) Name, address, occupation, and employer of the  
9 contributor;

10 (2) Name of the candidate, candidate committee, or  
11 noncandidate committee making or receiving the  
12 contribution; provided that, for noncandidate  
13 committees making only independent expenditures, if a  
14 contribution made is to an entity other than an  
15 individual, partnership, corporation, business entity,  
16 or labor union, then the report shall state whether  
17 the recipient entity of the contribution is subject to  
18 any state or federal disclosure reporting requirements  
19 concerning the contribution and:

20 (A) The internet address where the recipient entity's  
21 disclosure report can be publicly accessed; or



- 1            (B) The name, address, occupation, and employer of
- 2            each funding source of more than \$100 in the
- 3            aggregate to that recipient entity;
- 4            (3) The amount of the contribution received;
- 5            (4) The amount of the contribution made;
- 6            (5) The contributor's aggregate contributions to the
- 7            candidate, candidate committee, or noncandidate
- 8            committee; and
- 9            (6) The purpose, if any, to which the contribution will be
- 10           applied, including, for contributions to a
- 11           noncandidate committee, the name of any candidate
- 12           supported, opposed, or clearly identified."

13           SECTION 5. This Act does not affect rights and duties that

14           matured, penalties that were incurred, and proceedings that were

15           begun before its effective date.

16           SECTION 6. Statutory material to be repealed is bracketed

17           and stricken. New statutory material is underscored.

18           SECTION 7. This Act shall take effect on July 1, 2015.

19

INTRODUCED BY: 



# S.B. NO. 1344

**Report Title:**

Campaign Spending; Noncandidate Committees

**Description:**

Requires noncandidate committees making only independent expenditures to report whether its contributors and recipients are subject to disclosure reporting requirements and provide access to the contributor and recipient's reportable funding information.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

