
A BILL FOR AN ACT

RELATING TO CHARITABLE ORGANIZATIONS.

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

1 SECTION 1. The legislature finds that dark money is
2 defined as funds raised for the purpose of influencing elections
3 by nonprofit organizations that are not required to disclose the
4 identities of their donors. Dark money can come from
5 organizations, such as social welfare organizations granted tax
6 exempt status under 501(c)(4) of the Internal Revenue Code that
7 are not required to disclose their donors. This results in a
8 lack of transparency that fails to inform the public about who
9 is trying to influence an election. Although dark money can
10 come in through different tax exempt organizations, this Act
11 attempts to address only dark money donated through the
12 501(c)(4) organizations.

13 The legislature further finds that to be tax exempt as a
14 social welfare organization described in section 501(c)(4) of
15 the Internal Revenue Code, an organization must not be organized
16 for profit and must be operated exclusively to promote social
17 welfare. According to the Internal Revenue Service, to be



1 operated exclusively to promote social welfare, an organization
2 must operate primarily to further the common good and general
3 welfare of the people of the community, such as by bringing
4 about civic betterment and social improvements. The promotion
5 of social welfare does not include direct or indirect
6 participation or intervention in political campaigns on behalf
7 of or in opposition to any candidate for public office.

8 However, the Internal Revenue Service states that a social
9 welfare organization may engage in some political activities, so
10 long as that is not the organization's primary activity. This
11 means that an organization can use 49.99 per cent of its funds
12 to engage in political activity and still maintain its tax
13 exempt status, all while hiding its donors' involvement in
14 political campaigning. Furthermore, the Internal Revenue
15 Service is not currently authorized to use any funds to
16 investigate these activities in order to ensure compliance.
17 This allows 501(c)(4) organizations to engage in and spend
18 unregulated amounts of money on political activity without any
19 consequences or oversight, conceivably well above the political
20 activity percentage threshold allowed.



1 While the State does not have the authority to revoke
2 federal tax exempt status by the Internal Revenue Service, the
3 State should be given oversight into 501(c)(4) organizations
4 that operate in Hawaii to ensure that the majority of each
5 501(c)(4) organization's operations and spending are focused on
6 social welfare and not political activities. The State may then
7 submit its findings to the Internal Revenue Service and the
8 public.

9 The purpose of this Act is to promote transparency by tax
10 exempt social welfare organizations by requiring
11 501(c)(4) organizations that donate or contribute to
12 noncandidate committees, engage in electioneering
13 communications, or provide an endorsement for or against a
14 candidate register with the campaign spending commission and
15 file organizational and financial reports.

16 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
17 by adding three new sections to be appropriately designated and
18 to read as follows:

19 **"§11-A Social welfare organizations; organizational**
20 **reporting requirements.** (a) All social welfare organizations



1 shall file an organizational report with the commission. The
2 social welfare organization organizational report shall include:

- 3 (1) The full name of the social welfare organization,
4 which shall incorporate the full name of the
5 sponsoring entity, if any; provided that an acronym or
6 abbreviation may be used in other communications if
7 the acronym or abbreviation is commonly known or
8 clearly recognized by the general public; provided
9 further that the social welfare organization's name
10 shall not include the name of a candidate;
- 11 (2) The social welfare organization's address, including
12 website address, if any;
- 13 (3) The date the social welfare organization was
14 organized;
- 15 (4) The area, scope, or jurisdiction of the social welfare
16 organization;
- 17 (5) The name and address of the social welfare
18 organization's sponsoring entity; provided that if the
19 social welfare organization does not have a sponsoring
20 entity, the social welfare organization shall specify



- 1 the trade, profession, or primary interest of
2 contributors to the social welfare organization;
- 3 (6) The name, address, telephone number, occupation, and
4 principal place of business of the principal officer
5 of the social welfare organization;
- 6 (7) The name, address, telephone number, occupation, and
7 principal place of business of the treasurer and any
8 other officers of the social welfare organization;
- 9 (8) The name, address, telephone number, occupation, and
10 principal place of business of the custodian of the
11 books and accounts of the social welfare organization;
- 12 (9) Written acceptance of appointment by the principal
13 officer and treasurer of the social welfare
14 organization;
- 15 (10) A certification of the statement by the principal
16 officer and the treasurer of the social welfare
17 organization; and
- 18 (11) The name, address, occupation, and employer of each
19 donor who has contributed an aggregate amount of more
20 than \$100 since the last election and the amount and
21 date of deposit of each contribution.



1 (b) Any change in information previously reported in the
2 organizational report, with the exception of subsection (a)(11),
3 shall be electronically filed with the commission within ten
4 days of the change being brought to the attention of the
5 principal officer or treasurer of the social welfare
6 organization.

7 **§11-B Social welfare organizations; reports.** (a) The
8 treasurer of a social welfare organization shall file
9 preliminary, final, and supplemental reports that disclose the
10 following information:

- 11 (1) The social welfare organization's name and address;
12 (2) The cash on hand at the beginning of the reporting
13 period and election period;
14 (3) The reporting period and election period aggregate
15 totals for each of the following categories:
16 (A) Contributions received;
17 (B) Contributions made;
18 (C) Expenditures; and
19 (D) Other receipts;
20 (4) The cash on hand at the end of the reporting period;
21 and



1 (5) The surplus or deficit at the end of the reporting
2 period.

3 (b) Schedules filed with the reports shall include the
4 following additional information:

5 (1) The amount and date of deposit of each contribution
6 received and the name, address, occupation, and
7 employer of each contributor making a contribution
8 aggregating more than \$100 during an election period,
9 which was not previously reported; provided that if
10 all the information is not on file, the contribution
11 shall be returned to the contributor within thirty
12 days of deposit;

13 (2) The amount and date of each contribution made and the
14 name and address of the candidate, candidate
15 committee, or noncandidate committee to which the
16 contribution was made;

17 (3) All expenditures, including the name and address of
18 each payee and the amount, date, and purpose of each
19 expenditure; provided that:

20 (A) Expenditures for advertisements or electioneering
21 communications shall include the names of the



- 1 candidates supported, opposed, or clearly
2 identified;
- 3 (B) Expenditures for consultants, advertising
4 agencies and similar firms, credit card payments,
5 salaries, and candidate reimbursements shall be
6 itemized to permit a reasonable person to
7 determine the ultimate intended recipient of the
8 expenditure and its purpose;
- 9 (C) Independent expenditures shall include the name
10 of any candidate supported, opposed, or clearly
11 identified; and
- 12 (D) The purpose of an independent expenditure shall
13 include the name of the candidate who is
14 supported or opposed by the expenditure, and
15 whether the expenditure supports or opposes the
16 candidate;
- 17 (4) For social welfare organizations making only
18 independent expenditures, certification that no
19 expenditures have been coordinated with a candidate,
20 candidate committee, or noncandidate committee, or any



1 agent of a candidate, candidate committee, or
2 noncandidate committee;

3 (5) The amount, date of deposit, and description of other
4 receipts and the name and address of the source of
5 each of the other receipts;

6 (6) A description of each durable asset, the date of
7 acquisition, value at the time of acquisition, and the
8 name and address of the vendor or contributor of the
9 asset; and

10 (7) The date of disposition of a durable asset, value at
11 the time of disposition, method of disposition, and
12 name and address of the person receiving the asset.

13 (c) The treasurer of a social welfare organization shall
14 file a late contribution report as provided in section 11-338 if
15 the committee receives late contributions from any person
16 aggregating more than \$500 or makes late contributions
17 aggregating more than \$500.

18 (d) For purposes of this section, "electioneering
19 communication" means the same as defined in section 11-341.



1 §11-C Time for social welfare organizations to file
2 preliminary, final, and supplemental reports. (a) The filing
3 dates for preliminary reports are:

4 (1) Ten calendar days prior to a primary, special, or
5 nonpartisan election;

6 (2) Ten calendar days prior to a general election; and

7 (3) October 1 of the year of a general election.

8 Each preliminary report shall be current through the fifth
9 calendar day prior to the filing of the report.

10 (b) The filing date for the final primary report is twenty
11 calendar days after the primary, initial special, or initial
12 nonpartisan election. The report shall be current through the
13 day of the applicable election.

14 (c) The filing date for the final election period report
15 is thirty calendar days after a general, subsequent special, or
16 subsequent nonpartisan election. The report shall be current
17 through the day of the applicable election.

18 (d) The filing dates for supplemental reports are:

19 (1) January 31; and

20 (2) July 31 after an election year.



1 The report shall be current through December 31 for the report
2 filed on January 31 and current through June 30 for the report
3 filed on July 31."

4 SECTION 3. Section 11-302, Hawaii Revised Statutes, is
5 amended by adding a new definition to be appropriately inserted
6 and to read as follows:

7 "Social welfare organization" means a non-profit
8 organization operated exclusively to promote social welfare that
9 donates or contributes money to a noncandidate committee,
10 engages in electioneering communications, or provides an
11 endorsement for or against a candidate and is recognized as a
12 charitable or otherwise tax-exempt organization under
13 section 501(c)(4) of the Internal Revenue Code of 1986, as
14 amended."

15 SECTION 4. Section 11-321, Hawaii Revised Statutes, is
16 amended to read as follows:

17 1. By amending its title and subsections (a) to (c) to
18 read:

19 "[+]§11-321[+] **Registration of candidate committee** [~~ex~~],
20 **noncandidate committee, or social welfare organization.** (a)

21 Each candidate committee [~~ex~~], noncandidate committee, or social



1 welfare organization shall register with the commission by
2 filing an organizational report as set forth in section 11-322
3 [~~or~~], 11-323, or 11-A, as applicable.

4 (b) Before filing the organizational report, each
5 candidate committee [~~or~~], noncandidate committee, or social
6 welfare organization shall mail or deliver an electronic filing
7 form to the commission.

8 (c) The electronic filing form shall include a written
9 acceptance of appointment and certification of each report, as
10 follows:

11 (1) A candidate committee shall file a written acceptance
12 of appointment by the chairperson and treasurer and a
13 certification by the candidate and treasurer of each
14 filed report; [~~or~~]

15 (2) A noncandidate committee shall file a written
16 acceptance of appointment by the chairperson and
17 treasurer and a certification by the chairperson and
18 treasurer of each filed report[~~or~~]; or

19 (3) A social welfare organization shall file a written
20 acceptance of appointment by the principal officer and



1 treasurer and a certification by the principal officer
2 and treasurer of each filed report."

3 2. By amending subsection (g) to read:

4 "(g) The organizational report for a noncandidate
5 committee or a social welfare organization shall be filed within
6 ten days of receiving contributions or making or incurring
7 expenditures of more than \$1,000, in the aggregate, in a two-
8 year election period; provided that within the thirty-day period
9 prior to an election, a noncandidate committee or social welfare
10 organization shall register by filing an organizational report
11 within two days of receiving contributions or making or
12 incurring expenditures of more than \$1,000, in the aggregate, in
13 a two-year election period."

14 SECTION 5. Section 11-331, Hawaii Revised Statutes, is
15 amended to read as follows:

16 "**§11-331 Filing of reports, generally.** (a) Every report
17 required to be filed by a candidate or candidate committee shall
18 be certified as complete and accurate by the candidate and
19 treasurer.



1 (b) Every report required to be filed by a noncandidate
2 committee shall be certified as complete and accurate by the
3 chairperson and treasurer.

4 (c) Every report required to be filed by a social welfare
5 organization shall be certified as complete and accurate by the
6 principal officer and treasurer.

7 [~~(e)~~] (d) All reports required to be filed under this part
8 shall be filed on the commission's electronic filing system.

9 [~~(d)~~] (e) For purposes of this part, whenever a report is
10 required to be filed with the commission, "filed" means that a
11 report shall be filed with the commission's electronic filing
12 system by the date and time specified for the filing of the
13 report by:

14 (1) The candidate or candidate committee of a candidate
15 who is seeking election to the:

- 16 (A) Office of governor;
17 (B) Office of lieutenant governor;
18 (C) Office of mayor;
19 (D) Office of prosecuting attorney;
20 (E) County council;
21 (F) Senate;



- 1 (G) House of representatives; or
2 (H) Office of Hawaiian affairs; [~~or~~]
3 (2) A noncandidate committee required to be registered
4 with the commission pursuant to section 11-323[~~or~~]; or
5 (3) A social welfare organization required to be
6 registered with the commission pursuant to
7 section 11-A.

8 [~~or~~] (f) To be timely filed, a committee's reports shall
9 be filed with the commission's electronic filing system on or
10 before 11:59 p.m. Hawaiian standard time on the filing date
11 specified.

12 [~~or~~] (g) All reports filed under this part are public
13 records and shall be made available for public inspection on the
14 commission's website in a searchable database."

15 SECTION 6. Section 11-338, Hawaii Revised Statutes, is
16 amended to read as follows:

17 "**§11-338 Late contributions; late expenditures; report.**

18 (a) The candidate, authorized person in the case of a
19 noncandidate committee that is a party, or treasurer in the case
20 of a candidate committee [~~or~~], other noncandidate committee, or
21 social welfare organization that, within the period of fourteen



1 calendar days through four calendar days prior to any election,
2 makes contributions aggregating more than \$500, or receives
3 contributions from any person aggregating more than \$500, shall
4 file a late contribution report by means of the commission's
5 electronic filing system on or before the third calendar day
6 prior to the election.

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

- 9 (1) Name, address, occupation, and employer of the
10 contributor;
- 11 (2) Name of the candidate, candidate committee, [~~or~~]
12 noncandidate committee, or social welfare organization
13 making or receiving the contribution; provided that,
14 for noncandidate committees or social welfare
15 organizations making only independent expenditures, if
16 a late contribution greater than \$5,000 in the
17 aggregate is received from an entity other than an
18 individual, for-profit business entity, or labor
19 union, then the report shall include:
- 20 (A) The internet address where the contributing
21 entity's disclosure report can be publicly



- 1 accessed, if the contributing entity is subject
2 to any state or federal disclosure reporting
3 requirements regarding the source of the
4 contributing entity's funds;
- 5 (B) The name, address, occupation, and employer of
6 each funding source of more than \$100 in the
7 aggregate to that contributing entity; or
- 8 (C) An acknowledgment that the contributing entity is
9 not subject to any state or federal disclosure
10 reporting requirements regarding the source of
11 the contributing entity's funds;
- 12 (3) The amount of the contribution received;
- 13 (4) The amount of the contribution made;
- 14 (5) The contributor's aggregate contributions to the
15 candidate, candidate committee, [~~or~~], noncandidate
16 committee[~~]~~, or social welfare organization; and
- 17 (6) The purpose, if any, to which the contribution will be
18 applied, including, for contributions to a
19 noncandidate committee[~~]~~ or social welfare
20 organization, the name of any candidate supported,
21 opposed, or clearly identified.



1 (c) A noncandidate committee or social welfare
2 organization that makes independent expenditures in an aggregate
3 amount of more than \$500 within the period between fourteen and
4 four calendar days prior to any election shall file a late
5 expenditure report by means of the commission's electronic
6 filing system on or before the third calendar day prior to the
7 election. The late expenditure report shall include the
8 following information for each expenditure:

- 9 (1) The amount and date made;
10 (2) The vendor name, address, and contact information; and
11 (3) The purpose, including the name of any candidate
12 supported, opposed, or clearly identified by the
13 expenditure.

14 (d) A late contribution report or late expenditure report
15 filed pursuant to this section shall be in addition to any other
16 report required to be filed by this part."

17 SECTION 7. In codifying the new sections added by
18 section 2 of this Act, the revisor of statutes shall substitute
19 appropriate section numbers for the letters used in designating
20 the new sections in this Act.



1 SECTION 8. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 1, 2060.



Report Title:

Social Welfare Organizations; Registration; Reporting; Campaign Spending Commission

Description:

Clarifies that social welfare organizations granted tax exempt
Requires social welfare organizations granted tax exempt status
under 501(c)(4) of the Internal Revenue Code that donate or
contribute to noncandidate committees, engage in electioneering
communications, or provide an endorsement for or against a
candidate to register with the campaign spending commission and
file organizational and financial reports. Effective 7/1/2060.
(HD2)

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