

JAN 22 2021

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# A BILL FOR AN ACT

RELATING TO ELECTIONEERING COMMUNICATIONS.

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

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

3 "§11-341 Electioneering communications; statement of  
4 information. (a) Each person who makes an expenditure for  
5 electioneering communications in an aggregate amount of more  
6 than [~~\$2,000~~] \$5,000 during any calendar year shall file with  
7 the commission a statement of information within twenty-four  
8 hours of each disclosure date provided in this section.

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

11 (1) The name of the person making the expenditure, name of  
12 any person or entity sharing or exercising discretion  
13 or control over the person, and the custodian of the  
14 books and accounts of the person making the  
15 expenditure;

16 (2) The names and titles of the executives or board of  
17 directors who authorized the expenditure, if the



- 1 expenditure was made by a noncandidate committee,  
2 business entity, or an organization;
- 3 (3) The state of incorporation or formation and principal  
4 address of the noncandidate committee, business  
5 entity, or organization or for an individual, the  
6 name, address, occupation, and employer of the  
7 individual making the expenditure;
- 8 (4) The amount of each expenditure during the period  
9 covered by the statement and the identification of the  
10 person to whom the expenditure was made;
- 11 (5) The elections to which the electioneering  
12 communications pertain and the names of any clearly  
13 identifiable candidates and whether those candidates  
14 are supported or opposed;
- 15 (6) If the expenditures were made by a candidate committee  
16 or noncandidate committee, the names and addresses of  
17 all persons who contributed to the candidate committee  
18 or noncandidate committee for the purpose of  
19 publishing or broadcasting the electioneering  
20 communications;



1 (7) If the expenditures were made by an organization other  
2 than a candidate committee or noncandidate committee,  
3 the names and addresses of all persons who contributed  
4 to the organization for the purpose of publishing or  
5 broadcasting the electioneering communications;

6 (8) Whether or not any electioneering communication is  
7 made in coordination, cooperation, or concert with or  
8 at the request or suggestion of any candidate,  
9 candidate committee, or noncandidate committee, or  
10 agent of any candidate if any, and if so, the  
11 identification of the candidate, candidate committee,  
12 or noncandidate committee, or agent involved; and

13 (9) The three top contributors as required under section  
14 11-393, if applicable.

15 (c) An electioneering communication statement of  
16 information filed pursuant to this section shall be in addition  
17 to the filing of any other report required under this part.

18 (d) For purposes of this section:

19 "Disclosure date" means, for every calendar year, the first  
20 date [~~by which a person has made expenditures during that same~~  
21 ~~year of more than \$2,000 in the aggregate for electioneering~~



1 ~~communications, and the date of any subsequent expenditures by~~  
2 ~~that person for electioneering communications.]~~ during any  
3 calendar year on which an electioneering communication is  
4 publicly distributed, and the date on which any subsequent  
5 electioneering communication is publicly distributed; provided  
6 that the person making the electioneering communication has made  
7 expenditures for electioneering communications of more than  
8 \$5,000 in the aggregate.

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

- 13 (1) Refers to a clearly identifiable candidate;
- 14 (2) Is made, or scheduled to be made, either within thirty  
15 days prior to a primary or initial special election or  
16 within sixty days prior to a general or special  
17 election; and
- 18 (3) Is not susceptible to any reasonable interpretation  
19 other than as an appeal to vote for or against a  
20 specific candidate.



1 "Electioneering communication" shall not include  
2 communications:

3 (1) In a news story or editorial disseminated by any  
4 broadcast station or publisher of periodicals or  
5 newspapers, unless the facilities are owned or  
6 controlled by a candidate, candidate committee, or  
7 noncandidate committee;

8 ~~[(2) That constitute expenditures by the expending  
9 organization;~~

10 ~~-(3)]~~ (2) In house bulletins; or

11 ~~[-(4)]~~ (3) That constitute a candidate debate or forum, or  
12 solely promote a debate or forum and are made by or on  
13 behalf of the person sponsoring the debate or forum.

14 ~~[(e) For purposes of this section, a person shall be treated  
15 as having made an expenditure if the person has executed a  
16 contract to make the expenditure.] "~~

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

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



# S.B. NO. 404

1 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY: *[Handwritten Signature]*  
By Request



# S.B. NO. 404

**Report Title:**

Campaign Spending Commission Package; Electioneering  
Communication; Disclosure Date; Advertisement

**Description:**

Increases the monetary threshold that requires disclosure of electioneering communications. Requires that disclosures of electioneering communications occur on the date the electioneering communications are publicly distributed. Classifies election advertisements sent by mail at any postal rate, and election advertisements that are expenditures of an organization, as electioneering communications.

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

