
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 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 sometimes comes from
5 Internal Revenue Code 501(c)(4) organizations that are not
6 required to disclose the identity of their donors. By doing so,
7 there is a lack of transparency that fails to inform the public
8 on who is trying to influence an election. Although dark money
9 can come in through different tax-exempt organizations, this Act
10 attempts to address one area of dark money through the 501(c)(4)
11 organizations.

12 The legislature further finds that Internal Revenue
13 Code 501(c)(4) organizations are tax-exempt as a social welfare
14 organization, must not be organized for profit, and must be
15 operated exclusively to promote social welfare. The Internal
16 Revenue Service describes "exclusively promoting social welfare"
17 as operating primarily to further the common good and general



1 welfare of the people of the community, such as by bringing
2 about civic betterment and social improvements. The promotion
3 of social welfare does not include direct or indirect
4 participation or intervention in political campaigns on behalf
5 of or in opposition to any candidate for public office.

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

19 While the State does not have the authority to revoke
20 federal tax-exempt status, the State should be given oversight
21 into 501(c)(4) organizations that operate in Hawaii to ensure



1 that the majority of its operations and spending are focused on
2 social welfare and not political activities. The State may then
3 submit its findings to the Internal Revenue Service and the
4 public.

5 The purpose of this Act is to ultimately provide more
6 transparency in elections and build trust between the public and
7 elected officials through transparent information by requiring:

8 (1) Any organization, association, party, or individual
9 that is financially involved in the political process
10 to file a financial disclosure with the campaign
11 spending commission; and

12 (2) Noncandidate committees to provide to the campaign
13 spending commission a list of donors whose money was
14 given by a 501(c)(4) organization to the noncandidate
15 committee to fund an advertisement or electioneering
16 communication.

17 SECTION 2. Section 11-302, Hawaii Revised Statutes, is
18 amended by amending the definition of "noncandidate committee"
19 to read as follows:

20 ""Noncandidate committee" means an organization,
21 association, party, or individual that [~~has the purpose of~~



1 ~~making or receiving~~ makes or receives contributions, [~~making~~]
2 makes expenditures, or [~~incurring~~] incurs financial obligations
3 to influence the nomination for election, or the election, of
4 any candidate to office, or for or against any question or issue
5 on the ballot; provided that a noncandidate committee does not
6 include:

- 7 (1) A candidate committee;
- 8 (2) Any individual making a contribution or making an
9 expenditure of the individual's own funds or anything
10 of value that the individual originally acquired for
11 the individual's own use and not for the purpose of
12 evading any provision of this part; or
- 13 (3) Any organization that raises or expends funds for the
14 sole purpose of producing and disseminating
15 informational or educational communications that are
16 not made to influence the outcome of an election,
17 question, or issue on a ballot."

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

20 "(b) Schedules filed with the reports shall include the
21 following additional information:



1 (1) The amount and date of deposit of each contribution
2 received and the name, address, occupation, and
3 employer of each contributor making a contribution
4 aggregating more than \$100 during an election period,
5 which was not previously reported; provided that if:
6 (A) All the information is not on file, the
7 contribution shall be returned to the contributor
8 within thirty days of deposit; and
9 (B) A noncandidate committee making only independent
10 expenditures receives a contribution of more than
11 \$10,000 in the aggregate in an election period
12 from an entity other than an individual, for-
13 profit business entity, or labor union, then the
14 schedule shall include:
15 (i) The internet address where the contributing
16 entity's disclosure report can be publicly
17 accessed, if the contributing entity is
18 subject to state or federal disclosure
19 reporting requirements regarding the source
20 of the contributing entity's funds;



- 1 (ii) The name, address, occupation, and employer
2 of each funding source that contributed \$100
3 or more in the aggregate in an election
4 period to that contributing entity; or
5 (iii) An acknowledgment that the contributing
6 entity is not subject to any state or
7 federal disclosure reporting requirements
8 regarding the source of the contributing
9 entity's funds;
- 10 (2) The amount and date of each contribution made and the
11 name and address of the candidate, candidate
12 committee, or noncandidate committee to which the
13 contribution was made;
- 14 (3) All expenditures, including the name and address of
15 each payee and the amount, date, and purpose of each
16 expenditure; provided that:
- 17 (A) Expenditures for advertisements or electioneering
18 communications shall include the names of the
19 candidates supported, opposed, or clearly
20 identified;



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



- 1 (5) The amount, date of deposit, and description of other
2 receipts and the name and address of the source of
3 each of the other receipts;
- 4 (6) A description of each durable asset, the date of
5 acquisition, value at the time of acquisition, and the
6 name and address of the vendor or contributor of the
7 asset; [~~and~~]
- 8 (7) The date of disposition of a durable asset, value at
9 the time of disposition, method of disposition, and
10 name and address of the person receiving the asset[-];
11 and
- 12 (8) If the noncandidate committee received funds from an
13 organization that is exempt from federal taxation
14 under section 501(c)(4) of the Internal Revenue Code
15 of 1986, as amended, to be expended for advertisements
16 or electioneering communications, a list of donors
17 contributing more than \$5,000 in the aggregate in an
18 election period whose money was used by the
19 organization for the advertisement or electioneering
20 communication."



1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect on July 1, 2112.



Report Title:

Campaign Spending Commission; Noncandidate Committees; 501(c)(4) Organizations; Reports

Description:

Requires any organization, association, party, or individual that is financially involved in the political process to file a financial disclosure with the campaign spending commission. Requires noncandidate committees to provide to the campaign spending commission a list of certain donors whose money was given by a 501(c)(4) organization to the noncandidate committee to fund an advertisement or electioneering communication. Effective 7/1/2112. (HD2)

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

