
A BILL FOR AN ACT

RELATING TO ELECTIONEERING COMMUNICATIONS.

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

1 SECTION 1. The legislature finds that Act 3, Special
2 Session Laws of Hawaii 2021, received criticism for seemingly
3 limiting the expenditure reporting requirement by parties for
4 electioneering communications. Electioneering communications
5 reporting is required for noncandidate committees whose
6 expenditures are not the result of direct contributions to any
7 candidate and represents an unchecked resource that can be used
8 to unduly influence the results of candidate and issue
9 elections. Because of the unchecked and unknown sources of
10 these funds, additional scrutiny for their expenditures is
11 warranted. Nothing in this Act is meant to lower the
12 requirement for all expenditure reports to meet current pre-
13 election and post-election requirements by all parties
14 participating in campaign spending activity.

15 The purpose of this Act is to:

- 16 (1) Increase the threshold amount of aggregated
17 expenditures for electioneering communications in a



1 calendar year from more than \$1,000 to more than
2 \$2,000 before the filing of a statement of information
3 would be required;

4 (2) Require that disclosures of electioneering
5 communications occur on the date the electioneering
6 communications are publicly distributed;

7 (3) Specify the disclosure date for subsequent public
8 distribution of electioneering communications;

9 (4) Exempt communications in news stories and editorials
10 published by electronic means from being considered
11 electioneering communications; and

12 (5) Repeal the actual expenditures exception from the
13 definition of "electioneering communications".

14 SECTION 2. Section 11-341, Hawaii Revised Statutes, is
15 amended as follows:

16 1. By amending subsection (a) to read:

17 "(a) Each person who makes an expenditure for
18 electioneering communications in an aggregate amount of more
19 than [~~\$1,000~~] \$2,000 during any calendar year shall file with
20 the commission a statement of information within twenty-four
21 hours of each disclosure date provided in this section."



2. By amending subsection (d) to read:

"(d) For purposes of this section:

"Disclosure date" means, for every calendar year, the first date ~~[by which a person has made expenditures during that same year of more than \$1,000 in the aggregate for electioneering communications.]~~ during the calendar year on which an electioneering communication is publicly distributed, and the date on which any subsequent electioneering communication is publicly distributed; provided that the person making the electioneering communication has made expenditures for electioneering communications of more than \$2,000 in the aggregate.

"Electioneering communication" means any advertisement that is broadcast from a cable, satellite, television, or radio broadcast station; published in any periodical or newspaper or by electronic means; or sent by mail, and that:

(1) Refers to a clearly identifiable candidate;

(2) Is made, or scheduled to be made, either within thirty days before a primary or initial special election or within sixty days before a general or special election; and



(3) Is not susceptible to any 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]~~ published in periodicals or newspapers~~[,]~~ or by electronic means, unless the facilities are owned or controlled by a candidate, candidate committee, or noncandidate committee;

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

~~[(3)]~~ (2) In house bulletins; or

~~[(4)]~~ (3) 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.

"Person" shall not include a candidate or candidate committee."

SECTION 3. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.



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, and
4 shall apply to all elections beginning with the 2022 primary
5 election.

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Report Title:

Campaign Spending Commission; Electioneering Communication;
Statement of Information; Disclosure Date; Actual Expenditures

Description:

Increases the threshold amount that requires disclosure of electioneering communications. Requires that disclosures of electioneering communications occur on the date the electioneering communications are publicly distributed. Specifies the disclosure date for subsequent public distribution of electioneering communications. Exempts communications in news stories or editorials published by electronic means from being considered electioneering communications. Repeals the actual expenditures exception from the definition of "electioneering communication". Applies to all elections beginning with the 2022 primary election. Effective 7/1/2112.
(HD2)

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