
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 in the seminal case
2 on campaign finance law, *Buckley v. Valeo*, 424 U.S. 1 (1976),
3 the United States Supreme Court acknowledged the sufficiently
4 important government interest to ensuring that voters are fully
5 informed through campaign spending disclosure requirements. The
6 Court also acknowledged that campaign spending disclosure
7 requirements directly serve the sufficiently important
8 government interests in deterring corruption and the appearance
9 of corruption, as well as in gathering the data necessary to
10 detect campaign spending violations.

11 The legislature further finds that the State has a
12 sufficiently important government interest in an informed
13 electorate, deterring corruption and the appearance of
14 corruption, and gathering data necessary to detect campaign
15 spending violations. Campaign disclosure requirements directly
16 serve these sufficiently important government interests.



1 The legislature further finds that the State's existing
2 campaign finance laws fail to reveal the true source of dark
3 money campaign spending. Dark money campaign spending occurs
4 when an organization, such as a 501(c)(4) nonprofit
5 organization, raises funds through donations, then uses the
6 donations on campaign expenditures in an attempt to influence
7 elections. It is dark money because the organization is not
8 required, under existing law, to disclose the identity of the
9 donors making the donations. As a result, there is a lack of
10 transparency that fails to inform the public on who is trying to
11 influence an election.

12 The purpose of this Act is to enhance existing campaign
13 spending disclosure requirements to ensure that the true source
14 of campaign spending is disclosed to the electorate. This Act
15 also enhances existing disclosure requirements to deter
16 corruption or the appearance of corruption and to enable the
17 gathering of data necessary to detect violations of campaign
18 finance laws. Organizations that meet campaign spending
19 thresholds are currently required to disclose the identities
20 of its contributors. Under the enhanced disclosure requirements
21 contained in this Act, organizations that meet campaign spending



1 thresholds will also be required to disclose the identities of
2 its donors.

3 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
4 by adding a new section to part XIII to be appropriately
5 designated and to read as follows:

6 "§11- Separate campaign-related account. (a) A person
7 may make disbursements for electioneering communications,
8 independent expenditures, or contributions using amounts from a
9 bank account established and controlled by the person to be
10 known as the separate campaign-related account, which shall be
11 maintained separately from all other accounts of the person and
12 which shall consist exclusively of funds that were paid directly
13 to the separate campaign-related account by one or more person
14 other than the person that controls the separate campaign-
15 related account. A person shall not make transfers from its
16 general treasury into a separate campaign-related account
17 established under this section that the person controls.

18 (b) If a person establishes a separate campaign-related
19 account under this section, the person may not make
20 disbursements for electioneering communications, independent



1 expenditures, or contributions from any source other than from
2 the separate campaign-related account.

3 (c) Amounts in the separate campaign-related account shall
4 be used exclusively for disbursements by the person for
5 electioneering communications, independent expenditures, or
6 contributions. After disbursements are made, information with
7 respect to deposits made to the separate campaign-related
8 account shall be disclosed in accordance with this chapter."

9 SECTION 3. Section 11-302, Hawaii Revised Statutes, is
10 amended by adding four new definitions to be appropriately
11 inserted and to read as follows:

12 "Donation" means all transfers of money, credit or debit
13 card transactions, on-line payments, payments made through a
14 third party, paid personal services, or transfers of any other
15 thing of value to or by a person.

16 "Donor" means a person that makes a donation.

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

21 (1) Refers to a clearly identifiable candidate;



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

5 (3) Is not susceptible to any reasonable interpretation
6 other than as an appeal to vote for or against a
7 specific candidate.

8 "Electioneering communication" shall not include
9 communications:

10 (1) In a news story or editorial disseminated by any
11 broadcast station or publisher of periodicals or
12 newspapers, unless the facilities are owned or
13 controlled by a candidate, candidate committee, or
14 noncandidate committee;

15 (2) In-house bulletins; or

16 (3) That constitute a candidate debate or forum, or solely
17 promote a debate or forum and are made by or on behalf
18 of the person sponsoring the debate or forum.

19 "Last in, first out" means an accounting method by which
20 donations are attributed to donors in reverse chronological
21 order beginning with the most recent donor."



1 SECTION43. Section 11-335, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§11-335 **Noncandidate committee reports.** (a) The
4 authorized person in the case of a party, or treasurer in the
5 case of a noncandidate committee that is not a party, shall file
6 preliminary, final, and supplemental reports that disclose the
7 following information:

- 8 (1) The noncandidate committee's name and address;
- 9 (2) The cash on hand at the beginning of the reporting
10 period and election period;
- 11 (3) The reporting period and election period aggregate
12 totals for each of the following categories:
- 13 (A) Contributions received;
- 14 (B) Contributions made;
- 15 (C) Expenditures; and
- 16 (D) Other receipts;
- 17 (4) The cash on hand at the end of the reporting period;
18 and
- 19 (5) The surplus or deficit at the end of the reporting
20 period.



1 (b) Schedules filed with the reports shall include the
2 following additional information:

3 (1) The amount and date of deposit of each contribution
4 received and the name, address, occupation, and
5 employer of each contributor making a contribution
6 aggregating more than \$100 during an election period,
7 which was not previously reported[+] pursuant to this
8 section; provided that if:

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

12 (B) A noncandidate committee making only independent
13 expenditures receives a contribution of more than
14 \$10,000 in the aggregate in an election period
15 from an entity other than an individual, for-
16 profit business entity, or labor union, then the
17 schedule shall include:

18 (i) The internet address where the contributing
19 entity's disclosure report can be publicly
20 accessed, if the contributing entity is
21 subject to state or federal disclosure



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



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- 1 candidates supported, opposed, or clearly
2 identified;
- 3 (B) Expenditures for consultants, advertising
4 agencies and similar firms, credit card payments,
5 and salaries shall be itemized to permit a
6 reasonable person to determine the ultimate
7 intended recipient of the expenditure and its
8 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 noncandidate committees making only independent
18 expenditures, certification that no expenditures have
19 been coordinated with a candidate, candidate
20 committee, or any agent of a candidate or candidate
21 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) The amount and date of deposit of each donation
13 received and the name and address of each donor making
14 a donation aggregating more than \$100 during an
15 election period, which was not previously reported
16 pursuant to this section; provided that:
- 17 (A) If a noncandidate committee establishes a
18 separate campaign-related account, only the names
19 and addresses of donors of an aggregate of \$100
20 or more to the separate campaign-related account
21 shall be reported on the schedule; and



1 (B) A schedule filed pursuant to this section shall
2 not include a donor's name or address if the
3 noncandidate committee and the donor mutually
4 agree that the donation shall not be used for
5 electioneering communications, independent
6 expenditures, or contributions; and no later than
7 thirty days after receipt of the donation the
8 noncandidate committee transmits to the donor a
9 written confirmation by the noncandidate
10 committee's highest ranking official that the
11 donation will not be used for electioneering
12 communications, independent expenditures, or
13 contributions; and the name and address of the
14 donor will not appear in the schedule filed by
15 the noncandidate committee.

16 (c) No loan may be made or received by a noncandidate
17 committee.

18 (d) The authorized person in the case of a party, or
19 treasurer in the case of a noncandidate committee that is not a
20 party, shall file a late contribution report as provided in
21 section 11-338 if the committee receives late contributions from



1 any person aggregating more than \$500 or makes late
2 contributions aggregating more than \$500.

3 ~~[(c) For purposes of this section, "electioneering~~
4 ~~communication" means the same as defined in section 11-341.]"~~

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

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 making or receiving the
13 contribution; provided that, for noncandidate
14 committees making only independent expenditures, if a
15 late contribution greater than \$5,000 in the aggregate
16 is received from an entity other than an individual,
17 for-profit business entity, or labor union, then the
18 report shall include:

- 19 (A) The internet address where the contributing
20 entity's disclosure report can be publicly
21 accessed, if the contributing entity is subject



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



1 contribution made, using the last in, first out
2 accounting method; provided that, if the contribution
3 is made from a non-candidate committee's separate
4 campaign-related account, only the names and addresses
5 of donors of an aggregate of \$100 or more to the
6 noncandidate committee's separate campaign-related
7 account, up to the amount of the contribution made
8 using the last in, first out accounting method, shall
9 be reported in the late contribution report; provided
10 further that, a late contribution report shall not
11 include a donor's name or address if the noncandidate
12 committee and the donor mutually agree that the
13 donation shall not be used for contributions or
14 independent expenditures and no later than thirty days
15 after receipt of the donation the noncandidate
16 committee transmits to the donor a written
17 confirmation by the noncandidate committee's highest
18 ranking official that:
19 (A) The donation will not be used for contributions
20 or independent expenditures; and



1 (B) The name and address of the donor will not appear
2 in the late contribution report filed by the
3 noncandidate committee."

4 SECTION 6. Section 11-341, Hawaii Revised Statutes, is
5 amended to read as follows:

6 1. By amending subsection (b) to read:

7 "(b) Each statement of information shall contain the
8 following:

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

14 (2) The names and titles of the executives or board of
15 directors who authorized the expenditure, if the
16 expenditure was made by a noncandidate committee,
17 business entity, or an organization;

18 (3) The state of incorporation or formation and principal
19 address of the noncandidate committee, business
20 entity, or organization or for an individual, the



- 1 name, address, occupation, and employer of the
2 individual making the expenditure;
- 3 (4) The amount of each expenditure during the period
4 covered by the statement of information and the
5 identification of the person to whom the expenditure
6 was made;
- 7 (5) The elections to which the electioneering
8 communications pertain and the names of any clearly
9 identifiable candidates and whether those candidates
10 are supported or opposed;
- 11 (6) [~~If the expenditures were made by a noncandidate~~
12 ~~committee, the~~] The names and addresses of [all
13 ~~persons who contributed to the noncandidate committee~~
14 ~~for the purpose of publishing or broadcasting the~~
15 ~~electioneering communications,]~~ the top five
16 contributors contributing an aggregate of more than
17 \$100 using the last in, first out accounting method
18 from the disclosure date;
- 19 (7) [~~If the expenditures were made by an organization~~
20 ~~other than a noncandidate committee, the names and~~
21 ~~addresses of all persons who contributed to the~~



1 ~~organization for the purpose of publishing or~~
2 ~~broadcasting the electioneering communications;]~~ The
3 names and addresses of the top five donors donating an
4 aggregate of more than \$100 using the last in, first
5 out accounting method from the disclosure date;
6 provided that, if a person establishes a separate
7 campaign-related account, only the names and addresses
8 of donors of an aggregate of \$100 or more to the
9 person's separate campaign-related account shall be
10 reported in the statement of information; provided
11 further that, a statement of information shall not
12 include a donor's name or address if the person and
13 the donor mutually agree that the donation shall not
14 be used for electioneering communications and no later
15 than thirty days after receipt of the donation the
16 person transmits to the donor a written certification
17 by the person's highest ranking official that:
18 (A) The donation will not be used for electioneering
19 communications; and
20 (B) The name and address of the donor will not appear
21 in the statement of information;



1 (8) Whether any electioneering communication is made in
2 coordination, cooperation, or concert with or at the
3 request or suggestion of any candidate, candidate
4 committee, or noncandidate committee, or agent of any
5 candidate if any, and if so, the identification of the
6 candidate, candidate committee, or noncandidate
7 committee, or agent involved; and

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

10 2. By amending subsection (d) to read:

11 "(d) For purposes of this section:

12 "Disclosure date" means, for every calendar year, the first
13 date ~~[by which a person has made expenditures during that same~~
14 ~~year of more than \$1,000 in the aggregate for electioneering~~
15 ~~communications.]~~ electioneering communications of an aggregate
16 of more than \$1,000 is publicly distributed, and the date on
17 which subsequent electioneering communications of an aggregate
18 of \$500 is publicly distributed.

19 ~~["Electioneering communication" means any advertisement~~
20 ~~that is broadcast from a cable, satellite, television, or radio~~



1 ~~broadcast station; published in any periodical or newspaper or~~
2 ~~by electronic means; or sent by mail, and that:~~

- 3 ~~(1) Refers to a clearly identifiable candidate;~~
4 ~~(2) Is made, or scheduled to be made, either within thirty~~
5 ~~days before a primary or initial special election or~~
6 ~~within sixty days before a general or special~~
7 ~~election; and~~
8 ~~(3) Is not susceptible to any reasonable interpretation~~
9 ~~other than as an appeal to vote for or against a~~
10 ~~specific candidate.~~

11 ~~"Electioneering communication" shall not include communications:~~

- 12 ~~(1) In a news story or editorial disseminated by any~~
13 ~~broadcast station or publisher of periodicals or~~
14 ~~newspapers, unless the facilities are owned or~~
15 ~~controlled by a candidate, candidate committee, or~~
16 ~~noncandidate committee;~~
17 ~~(2) That constitute actual expenditures by the expending~~
18 ~~organization;~~
19 ~~(3) In house bulletins; or~~



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1 ~~(4) That constitute a candidate debate or forum, or solely~~
2 ~~promote a debate or forum and are made by or on behalf~~
3 ~~of the person sponsoring the debate or forum.]~~

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

6 SECTION 7. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 8. This Act shall take effect upon its approval.

9

INTRODUCED BY:

Lisa King
JAN 26 2022



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Report Title:

Campaign Spending; Electioneering Communication; Disclosures

Description:

Informs the public of the true sources of dark money contributions by requiring "persons," which includes 501(c)(4) organizations, to disclose the name and address of donors who donate an aggregate of more than \$100, with certain exceptions. Adds definitions.

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