

JAN 17 2025

A BILL FOR AN ACT

RELATING TO ELECTIONS.

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

1 SECTION 1. The legislature finds that independent
2 expenditures made by noncandidate committees significantly
3 influence the electoral process in the State. These
4 expenditures often dwarf the spending of individual candidates
5 and voters, leading to concerns about equity and transparency in
6 elections.

7 In *Citizens United v. Federal Election Commission*, the
8 United States Supreme Court affirmed that political expenditures
9 are a form of protected speech under the First Amendment of the
10 United States Constitution. However, that holding did not
11 exempt these expenditures from being subject to the State's
12 authority to impose charges and fees.

13 The Hawaii election campaign fund and the campaign spending
14 commission are critical in maintaining transparency, ensuring
15 equitable access to resources for all candidates, and supporting
16 public confidence in the electoral process.



S.B. NO. 1173

1 The purpose of this Act is to impose a fee on the total
2 amount of independent expenditures made by a noncandidate
3 committee during an election. This fee does not prohibit or
4 restrict free speech but ensures that those engaging in
5 independent political spending contribute to the public good.

6 Revenues generated under this Act shall be allocated to the
7 Hawaii election campaign fund, which provides public financing
8 for qualified candidates and reduces reliance on private
9 funding. The legislature finds that these revenues could also
10 provide the campaign spending commission with sufficient funding
11 to enable the hiring of additional inspectors, attorneys, and
12 administrative staff, and to upgrade technological
13 infrastructure for oversight and enforcement.

14 By enacting this legislation, the State aims to enhance
15 fairness and transparency in its electoral system, while
16 safeguarding the constitutional rights of all citizens.

17 SECTION 2. Chapter 11, Hawaii Revised Statutes, is amended
18 by adding a new subpart to part XIII to be appropriately
19 designated and to read as follows:



S.B. NO. 1173

1 " . INDEPENDENT EXPENDITURES MADE BY NONCANDIDATE COMMITTEES

2 §11-A Independent expenditures made by a noncandidate

3 committee; fee. (a) There is imposed a fee on all independent
4 expenditures made by a noncandidate committee regarding an
5 election within the State.

6 (b) The amount of the fee shall be equal to five per cent
7 of the total amount of independent expenditures made by the
8 noncandidate committee during an election period.

9 (c) The commission shall assess the amount owed by each
10 noncandidate committee based on reports submitted to the
11 commission pursuant to sections 11-335 and 11-338.

12 (d) Payment of the fee shall be made to the commission
13 within sixty days of the issuance of an assessment under
14 subsection (c).

15 (e) The commission shall be responsible for the
16 administration, collection, and enforcement of the fee imposed
17 under this section.

18 The commission shall establish procedures for electronic
19 payment of fees, ensuring transparency and ease of compliance
20 for all noncandidate committees.



1 (f) This section shall not be construed to prohibit or
2 limit the speech of any person or entity, but rather to serve as
3 a fee under the State's authority to impose charges and fees for
4 the purpose of promoting transparency and equity in elections.

5 **§11-B Failure to make payment of fees.** Failure of a
6 noncandidate committee to make payment of a fee assessed under
7 section 11-A within the required period shall result in
8 penalties, including:

- 9 (1) A fine not to exceed \$10,000 per assessment unpaid;
10 (2) Accrual of interest on unpaid fees at the rate of ten
11 per cent per annum; and
12 (3) Suspension of the noncandidate committee's ability to
13 conduct independent expenditures in the State until
14 all assessments and penalties are paid in full.

15 **§11-C Disposition of revenues.** All revenues generated
16 from the fee imposed under this subpart, including penalties and
17 interest, shall be deposited into the Hawaii election campaign
18 fund established under section 11-421 and allocated as follows:

- 19 (1) Seventy-five per cent shall be used for public
20 campaign financing programs; and



1 (2) Twenty-five per cent shall be used by the commission
2 for the purposes of hiring additional inspectors,
3 attorneys, and staff, as well as upgrading
4 administrative and technological systems for campaign
5 oversight.

6 **§11-D Rules.** The commission shall adopt rules under
7 chapter 91 and establish administrative procedures required for
8 the implementation of this subpart no later than January 1,
9 2027. This includes but is not limited to:

- 10 (1) Developing electronic systems for payment of fees;
- 11 (2) Conducting public education and outreach to inform
12 noncandidate committees of their obligations under
13 this subpart; and
- 14 (3) Training staff and hiring additional personnel
15 required for enforcement and administration."

16 SECTION 3. In codifying the new sections added by
17 section 2 of this Act, the revisor of statutes shall substitute
18 appropriate section numbers for the letters used in designating
19 the new sections in this Act.

20 SECTION 4. If any provision of this Act, or the
21 application thereof to any person or circumstance, is held



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1 invalid, the invalidity does not affect other provisions or
2 applications of the Act that can be given effect without the
3 invalid provision or application, and to this end the provisions
4 of this Act are severable.

5 SECTION 5. This Act shall take effect upon its approval;
6 provided that section 2 shall apply to all elections held on or
7 after January 1, 2028.

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INTRODUCED BY: _____

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S.B. NO. 1173

Report Title:

Elections; Noncandidate Committees; Independent Expenditures;
Fee

Description:

Imposes a fee on the total amount of independent expenditures made by a noncandidate committee during an election period.

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

