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# A BILL FOR AN ACT

RELATING TO CAMPAIGN FINANCE.

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

1           SECTION 1. The legislature finds that the State's campaign  
2 finance law is complex, unduly punitive, and produces a  
3 regulatory structure that often fails to inform and educate  
4 candidates on proper procedures. The legislature also finds  
5 that these factors create barriers to citizen participation in  
6 the political process, when the State should be taking steps to  
7 encourage such participation.

8           The legislature further finds that the campaign finance law  
9 needs to be clear to ensure its effective administration.

10          Accordingly, the purpose of this Act is to amend the  
11 process relating to unfiled, substantially defective, and  
12 substantially deficient campaign finance reports by:

13           (1) Requiring the campaign spending commission to send  
14 notices regarding unfiled, substantially defective,  
15 and substantially deficient reports by certified mail;



- 1           (2) Requiring the campaign spending commission to specify  
2           in substantial defect and deficient report notices the  
3           nature of any substantial defect or deficiency;
- 4           (3) Allowing recipients of substantial defect and  
5           deficient report notices to correct their reports up  
6           to ten business days after the receipt of the notices;  
7           and
- 8           (4) Defining the terms "substantially defective" and  
9           "substantially deficient".

10           SECTION 2. Section 11-302, Hawaii Revised Statutes, is  
11 amended by adding two new definitions to be appropriately  
12 inserted and to read as follows:

13           "Substantially defective", and any variation of that term,  
14 means or refers to having one or more material defects or flaws.

15           "Substantially deficient", and any variation of that term,  
16 means or refers to lacking necessary information."

17           SECTION 3. Section 11-314, Hawaii Revised Statutes, is  
18 amended to read as follows:

19           "**§11-314 Duties of the commission.** The duties of the  
20 commission under this part are to:

- 21           (1) Develop and adopt forms required by this part;



- 1 (2) Adopt and publish a manual for all candidates,  
2 candidate committees, and noncandidate committees,  
3 describing the requirements of this part, including  
4 uniform and simple methods of recordkeeping;
- 5 (3) Preserve all reports required by this part for at  
6 least ten years from the date of receipt by the  
7 commission;
- 8 (4) Permit the inspection, copying, or duplication of any  
9 report required by this part pursuant to rules adopted  
10 by the commission under chapter 91; provided that this  
11 paragraph shall not apply to the sale or use of  
12 information under section 11-344;
- 13 (5) ~~[Ascertain whether]~~ Take action pursuant to  
14 section 11-340 against any person ~~[has failed]~~ for  
15 failing to file a report required by this part or ~~[has~~  
16 ~~filed]~~ for filing a substantially defective or  
17 deficient report~~[. The commission shall notify the~~  
18 ~~person by first class mail that a fine may be assessed~~  
19 ~~for the failure to file or the filing of a~~  
20 ~~substantially defective or deficient report, and the~~  
21 ~~defective or deficient report shall be corrected and~~



1 ~~explained. All fines collected under this section as~~  
2 ~~authorized by sections 11-340 and 11-410 shall be~~  
3 ~~deposited in the general fund of the State];~~

4 (6) Hold public hearings;

5 (7) Investigate and hold hearings for receiving evidence  
6 of any violations pursuant to subpart I of this part;

7 (8) Adopt rules pursuant to chapter 91;

8 (9) Request the initiation of prosecution for the  
9 violation of this part pursuant to section 11-411;

10 (10) Administer and monitor the distribution of public  
11 funds under this part;

12 (11) Suggest accounting methods for candidates, candidate  
13 committees, or noncandidate committees in connection  
14 with reports and records required by this part;

15 (12) Employ or contract with, without regard to  
16 chapters 76, 78, and 89, persons it finds necessary  
17 for the performance of its functions, including a  
18 full-time executive director, and to fix their  
19 compensation; provided that the commission shall have  
20 the authority, at its discretion, to dismiss persons  
21 employed by or contracted with the commission;



1 (13) Conduct random audits and field investigations, as  
2 necessary; [~~and~~]

3 (14) File for injunctive relief when indicated[~~-~~]; and

4 (15) Ensure that all fines collected pursuant to  
5 sections 11-340 and 11-410 are deposited in the  
6 general fund of the State."

7 SECTION 4. Section 11-340, Hawaii Revised Statutes, is  
8 amended as follows:

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

10 "(b) The fine for not filing a report by the due date, if  
11 assessed, shall not exceed \$50 per day for the first seven days,  
12 beginning with the day after the due date of the report, and  
13 shall not exceed \$200 per day thereafter; provided that:

14 (1) In aggregate, the fine shall not exceed twenty-five  
15 per cent of the total amount of contributions or  
16 expenditures, whichever is greater, for the period  
17 covered by the report; [~~and~~]

18 (2) The minimum fine for a report filed more than four  
19 days after the due date, if assessed, shall be  
20 \$200[~~-~~]; and



1        (3) The commission shall immediately remind the candidate  
2        committee or noncandidate committee via certified mail  
3        of the due date missed, and the daily fines that will  
4        apply until a report is filed."

5        2. By amending subsections (d) to (f) to read:

6        "(d) If the commission determines that a report is  
7        substantially defective or deficient, the commission shall  
8        notify the candidate committee or noncandidate committee by  
9        [~~first-class~~] certified mail [~~that~~]:

10        (1) [~~The~~] That the report is substantially defective or  
11        deficient; [~~and~~]

12        (2) Of the specific nature of the substantial defect or  
13        substantial deficiency; and

14        [~~2~~] A] (3) That an uncorrected report fine may be  
15        assessed[~~-~~] pursuant to subsection (e) if the  
16        committee fails to file a corrective action.

17        (e) If [~~the~~] a corrected report is not filed with the  
18        commission's electronic filing system on or before the  
19        [~~fourteenth~~] tenth business day after the notice of defect or  
20        deficiency has been [~~mailed,~~] received by the candidate  
21        committee or noncandidate committee, the uncorrected report



1 fine, if assessed, [~~for a substantially defective or deficient~~  
2 ~~report~~] shall not exceed \$50 per calendar day for the first  
3 seven calendar days, beginning with the [~~fifteenth~~] eleventh  
4 business day after the notice was [~~sent,~~] received by the  
5 candidate committee, and shall not exceed \$200 per calendar day  
6 thereafter; provided that:

7 (1) In aggregate, the uncorrected report fine shall not  
8 exceed twenty-five per cent of the total amount of  
9 contributions or expenditures, whichever is greater,  
10 for the period covered by the report; and

11 (2) The minimum uncorrected report fine for not filing a  
12 corrected report more than [~~eighteen~~] \_\_\_\_\_ days  
13 after the candidate committee's or noncandidate  
14 committee's receipt of the notice, if assessed, shall  
15 be \$200.

16 (f) The commission shall publish on its website the names  
17 of all candidate and noncandidate committees that have failed  
18 to:

19 (1) File a report; or

20 (2) [~~Correct a report within two weeks from the notice to~~  
21 ~~correct provided by the commission.~~] Timely file a



1           corrected report after receiving notice pursuant to  
2           subsection (e)."

3           SECTION 5. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun before its effective date.

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

8           SECTION 7. This Act shall take effect upon its approval.

9

INTRODUCED BY: *Lynne DeCoster*



# S.B. NO. 2794

**Report Title:**

Elections; Campaign Finance; Reports; Defects; Deficiencies

**Description:**

Requires the Campaign Spending Commission to send notices regarding unfiled, substantially defective, and substantially deficient reports by certified mail. Requires the Commission to specify in substantial defect and deficient report notices the nature of any substantial defect or deficiency. Allows recipients of substantial defect and deficient report notices to correct their reports up to 10 business days after the receipt of the notices. Defines the terms "substantially defective" and "substantially deficient".

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