
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 has a
2 compelling interest in securing its democratic self-governance
3 from foreign influence. The State welcomes immigrants,
4 visitors, and investors from around the world; however, its
5 elections should be decided by the people of the State and not
6 by foreign entities.

7 The legislature further finds that the United States
8 government has concluded that Russia, China, Iran, and other
9 foreign actors are engaged in ongoing campaigns to undermine
10 democratic institutions, as set forth in the joint statement
11 "Combating Foreign Influence in United States Elections", issued
12 by the Office of the Director of National Intelligence, United
13 States Department of Justice, Federal Bureau of Investigation
14 (FBI), and United States Department of Homeland Security on
15 October 19, 2018. The FBI has also concluded that foreign-
16 influenced activities include "criminal efforts to suppress
17 voting and provide illegal campaign financing", as set forth in



1 FBI Director Christopher Wray's press briefing on election
2 security on August 2, 2018.

3 The legislature also finds that the United States Congress
4 recognized the need to protect American elections from foreign
5 influence through the ban on contributions and expenditures by
6 foreign nationals imposed by title 52 United States Code section
7 30121, upheld in *Bluman v. Federal Election Commission*,
8 800 F.Supp.2d 281 (D.D.C. 2011), summarily affirmed, 565 U.S.
9 1104 (2012). Several states, including Hawaii, have enacted
10 similar laws that ban foreign nationals from making
11 contributions or expenditures in connection with state or local
12 elections.

13 The legislature further finds that former President Barack
14 Obama warned of foreign corporate spending in state elections.
15 Political spending by foreign entities can weaken, interfere
16 with, or disrupt a state's democratic self-government and the
17 trust that the electorate has in its elected representatives.
18 In the State, both foreign nationals and foreign corporations
19 are prohibited from making contributions or expenditures to or
20 on behalf of a candidate, candidate committee, or noncandidate
21 committee. However, more can be done to protect the integrity



1 of the State's democratic self-government from foreign entities
2 that seek to influence state elections through political
3 spending.

4 The purpose of this Act is to protect the State's
5 democratic self-governance by:

- 6 (1) Prohibiting foreign entities and foreign-influenced
7 business entities from making contributions,
8 expenditures, electioneering communications, or
9 donations for election purposes;
- 10 (2) Requiring every business entity that contributes or
11 expends funds in a state election to certify that the
12 entity was not a foreign corporation or foreign-
13 influenced business entity when the contribution or
14 expenditure was made; provided that entities engaged
15 in transporting cargo and subject to section 27 of the
16 Merchant Marine Act of 1920 (46 U.S.C. 55102) are
17 exempt from this requirement;
- 18 (3) Specifying that if the conditions that determine
19 whether a business entity qualifies as a
20 foreign-influenced business entity are held
21 unconstitutional by a final judgment, including all



1 appeals, the campaign spending commission is required
2 to establish revised conditions that are
3 constitutional; and

4 (4) Requiring noncandidate committees making only
5 independent expenditures to obtain a statement of
6 certification from each top contributor required to be
7 listed in an advertisement avowing that none of the
8 funds contributed were derived from foreign entities
9 or foreign-influenced business entities.

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

13 ""Business entity" means a for-profit corporation, company,
14 limited liability company, limited partnership, business trust,
15 business association, or other similar for-profit business
16 entity.

17 "Foreign-influenced business entity" means a business
18 entity that meets at least one of the following conditions:

19 (1) A single foreign investor holds, owns, controls, or
20 otherwise has direct or indirect beneficial ownership
21 of one per cent or more of the total equity,



1 outstanding voting shares, membership units, or other
2 applicable ownership interests of the business entity;

3 (2) Six or more foreign investors, in aggregate, hold,
4 own, control, or otherwise have direct or indirect
5 beneficial ownership of five per cent or more of the
6 total equity, outstanding voting shares, membership
7 units, or other applicable ownership interests of the
8 business entity; or

9 (3) A foreign investor participates directly or indirectly
10 in the business entity's decision-making process with
11 respect to the business entity's political activities
12 in the United States.

13 "Foreign investor" means a person or entity that:

14 (1) Holds, owns, controls, or otherwise has direct or
15 indirect beneficial ownership of equity, outstanding
16 voting shares, membership units, or other applicable
17 ownership interests of a business entity; and

18 (2) Is:

19 (A) A government or subdivision of a foreign country;

20 (B) A foreign political party;



1 (C) An individual outside the United States who is
2 not a citizen of the United States or a national
3 of the United States and who is not lawfully
4 admitted for permanent residence; or

5 (D) A business entity:

6 (i) That is organized under the laws of or
7 having its principal place of business in a
8 foreign country; or

9 (ii) In which a person or entity described in
10 subparagraph (A), (B), or (C) holds, owns,
11 controls, or otherwise has directly or
12 indirectly acquired a beneficial ownership
13 of equity, voting shares, membership units,
14 or other applicable ownership interests of
15 the business entity in an amount that is
16 equal to or greater than fifty per cent of
17 the total equity, outstanding voting shares,
18 membership units, or other applicable
19 ownership interests of the business entity."

20 SECTION 3. Section 11-356, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "~~{}~~§11-356~~{}~~ **Contributions and expenditures by a foreign**
2 **national ~~{}~~, foreign corporation, or foreign-influenced**
3 **business entity; prohibited.** (a) ~~[Except as provided in~~
4 ~~subsection (b), no]~~ No contributions or expenditures shall be
5 made to or on behalf of a candidate, candidate committee, or
6 noncandidate committee~~{}~~ by a foreign national ~~{}~~, foreign
7 corporation, or foreign-influenced business entity, including a
8 domestic subsidiary of a foreign corporation, ~~{}~~ domestic
9 corporation that is owned by a foreign national, or ~~{}~~ local
10 subsidiary where administrative control is retained by the
11 foreign corporation~~{}~~, ~~and in the same manner prohibited under 2~~
12 ~~United States Code section 441c and 11 Code of Federal~~
13 ~~Regulations section 110.20, as amended.~~

14 ~~(b) A foreign owned domestic corporation may make~~
15 ~~contributions if:~~

16 ~~(1) Foreign national individuals do not participate in~~
17 ~~election related activities, including decisions~~
18 ~~concerning contributions or the administration of a~~
19 ~~candidate committee or noncandidate committee; or~~

20 ~~(2) The contributions are domestically derived].~~



1 (b) No independent expenditures or electioneering
2 communications shall be made by a foreign national, foreign
3 corporation, or foreign-influenced business entity.

4 (c) No contribution or donation shall be made to any
5 person by a foreign national, foreign corporation, or
6 foreign-influenced business entity if the contribution or
7 donation is earmarked for the recipient to make a campaign
8 finance contribution or expenditure, including independent
9 expenditure or electioneering communication.

10 (d) Within seven calendar days, a for-profit business
11 entity that makes a contribution or expenditure, including an
12 independent expenditure, shall file with the campaign spending
13 commission a statement of certification signed by the business
14 entity's chief executive officer avowing under penalty of
15 perjury that, after due inquiry, the business entity was not a
16 foreign corporation or foreign-influenced business entity on the
17 date the contribution or expenditure was made.

18 (e) If a business entity intends to make more than one
19 contribution to or expenditure on behalf of a candidate,
20 candidate committee, or noncandidate committee, including
21 independent expenditures or electioneering communications,



1 within an election cycle, that business entity may, within seven
2 days after making its first contribution or expenditure of an
3 election cycle, file with the commission a statement of
4 certification signed by the business entity's chief executive
5 officer avowing under penalty of perjury that:

6 (1) After due inquiry, the business entity was not a
7 foreign corporation or foreign-influenced business
8 entity on the date the contribution or expenditure was
9 made;

10 (2) The business entity will conduct due inquiry before
11 any future contribution or expenditure to determine if
12 the business entity has become a foreign corporation
13 or foreign-influenced business entity; and

14 (3) Any future contribution or expenditure shall only be
15 made if the commission determines, after due inquiry,
16 that the business entity is not a foreign corporation
17 or foreign-influenced business entity.

18 (f) If a business entity does not file a certificate with
19 the campaign spending commission that complies with subsection
20 (e) of this section, then the business entity shall file a
21 certificate that complies with subsection (d) of this section



1 within seven days of each one of its contributions or
2 expenditures, including independent expenditures.

3 (g) If a business entity files a certificate in compliance
4 with subsection (e) of this section within the course of an
5 election cycle and later in that election cycle determines that
6 it has become a foreign corporation or foreign-influenced
7 business entity, then within seven days it shall file with the
8 commission a statement signed by the business entity's chief
9 executive officer avowing under penalty of perjury that it has
10 become a foreign corporation or foreign-influenced business
11 entity.

12 (h) For the purposes of certification under subsection
13 (d), the business entity shall ascertain beneficial ownership in
14 a manner:

15 (1) Consistent with the Hawaii Business Corporation Act,
16 chapter 414; or

17 (2) If it is registered on a national securities exchange,
18 as set forth in title 17 Code of Federal Regulations
19 sections 240.13d-3 and 240.13d-5.

20 (i) If the conditions that determine whether a business
21 entity qualifies as a foreign-influenced business entity



1 pursuant to section 11-302 are held to be unconstitutional by a
2 binding final judgment of court, inclusive of all appeals, the
3 commission shall establish revised conditions that are
4 constitutional and further the State's interest as set forth in
5 Act _____, Session Laws of Hawaii 2026; provided that the revised
6 conditions shall be relied upon by business entities in
7 determining whether they are foreign-influenced business
8 entities pursuant to this section.

9 (j) A contribution made by a foreign national, foreign
10 corporation, or foreign-influenced business entity, or a
11 contribution made by any entity that received funds from a
12 foreign national, foreign corporation, or foreign-influenced
13 business entity in violation of subsection (c) of this section,
14 shall escheat to the Hawaii election campaign fund.

15 (k) This section shall not apply to entities engaged in
16 transporting cargo and subject to section 27 of the Merchant
17 Marine Act of 1920 (46 U.S.C. 55102).

18 (l) For the purposes of this section:

19 "Chief executive officer" means the highest-ranking officer
20 or individual having authority to make decisions regarding a
21 business entity's affairs.



1 "Earmarked" means a designation or instruction, whether
2 direct or indirect, express or implied, oral or written, that
3 results in all or any part of the contribution or donation being
4 expended in a manner that would be prohibited by this section if
5 made by a foreign national, foreign corporation, or
6 foreign-influenced business entity."

7 SECTION 4. Section 11-393, Hawaii Revised Statutes, is
8 amended to read as follows:

9 **"§11-393 Identification of certain top contributors to**
10 **noncandidate committees making only independent expenditures.**

11 (a) An advertisement shall contain an additional notice in a
12 prominent location immediately after or below the notices
13 required by section 11-391, if the advertisement is broadcast,
14 televised, circulated, or published, including by electronic
15 means, and is paid for by a noncandidate committee that
16 certifies to the commission that it makes only independent
17 expenditures. [~~This~~] The additional notice shall start with the
18 words, "The three top contributors for this advertisement are",
19 followed by the names of the three top contributors [~~, as defined~~
20 ~~in subsection (e),~~] who made the highest aggregate contributions



1 to the noncandidate committee for the purpose of funding the
2 advertisement; provided that:

- 3 (1) If a noncandidate committee is only able to identify
4 two top contributors who made contributions for the
5 purpose of funding the advertisement, the additional
6 notice shall start with the words, "The two top
7 contributors for this advertisement are", followed by
8 the names of the two top contributors;
- 9 (2) If a noncandidate committee is able to identify only
10 one top contributor who made contributions for the
11 purpose of funding the advertisement, the additional
12 notice shall start with the words, "The top
13 contributor for this advertisement is", followed by
14 the name of the top contributor;
- 15 (3) If a noncandidate committee is unable to identify any
16 top contributors who made contributions for the
17 purpose of funding the advertisement, the additional
18 notice shall start with the words, "The three top
19 contributors for this noncandidate committee are",
20 followed by the names of the three top contributors



1 who made the highest aggregate contributions to the
2 noncandidate committee; and

3 (4) If there are no top contributors to the noncandidate
4 committee, the noncandidate committee shall not be
5 subject to this section.

6 In no case shall a noncandidate committee be required to
7 identify more than three top contributors pursuant to this
8 section.

9 (b) If a noncandidate committee has more than three top
10 contributors who contributed in equal amounts, the noncandidate
11 committee may select which of the top contributors to identify
12 in the advertisement; provided that the top contributors not
13 identified in the advertisement did not make a higher aggregate
14 contribution than [~~these~~] the top contributors who are
15 identified in the advertisement. The additional notice required
16 for noncandidate committees described under this subsection
17 shall start with the words, "Three of the top contributors for
18 this advertisement are" or "Three of the top contributors to
19 this noncandidate committee are", as appropriate, followed by
20 the names of the three top contributors.



1 (c) This section shall not apply to advertisements
2 broadcast by radio or television of [~~such~~] short duration [~~that~~
3 ~~including~~] for which the inclusion of a list of top contributors
4 in the advertisement would constitute a hardship to the
5 noncandidate committee paying for the advertisement. A
6 noncandidate committee shall be subject to all other
7 requirements under this part regardless of whether a hardship
8 exists pursuant to this subsection. The commission shall adopt
9 rules pursuant to chapter 91 to establish criteria to determine
10 when including a list of top contributors in an advertisement of
11 short duration constitutes a hardship to a noncandidate
12 committee under this subsection.

13 (d) A noncandidate committee shall obtain a statement of
14 certification, signed under oath as defined in, and on a form as
15 described in, section 710-1000, from each top contributor
16 required to be listed in an advertisement pursuant to this
17 section avowing under penalty of law that, after due inquiry,
18 none of the funds contributed by a top contributor were derived
19 from a foreign national, foreign corporation, or foreign-
20 influenced business entity. If a noncandidate committee does
21 not receive a statement of certification from a top contributor,



1 the advertisement shall include the following statement: "Some
2 of the funds used to pay for this message may have been provided
3 by foreign corporations or foreign-influenced business entities,
4 as no certification disclosing foreign influence was provided".
5 A noncandidate committee may rely on a statement of
6 certification provided by a top contributor unless the
7 noncandidate committee has actual knowledge that the statement
8 of certification is false.

9 ~~(d)~~ (e) Any noncandidate committee that violates this
10 section shall be subject to a minimum fine of \$1,000 per
11 violation.

12 ~~(e)~~ (f) For the purposes of this section, "top
13 contributor" means a contributor who has contributed an
14 aggregate amount of \$10,000 or more to a noncandidate committee
15 within a twelve-month period before the purchase of an
16 advertisement."

17 SECTION 5. Nothing in this Act shall be construed to
18 diminish or infringe upon any right protected under the First
19 Amendment of the Constitution of the United States or conflict
20 with any federal statute or regulation.



1 SECTION 6. If any provision of this Act, or the
2 application thereof to any person or circumstance, is held
3 invalid, the invalidity does not affect other provisions or
4 applications of the Act that can be given effect without the
5 invalid provision or application, and to this end the provisions
6 of this Act are severable.

7 SECTION 7. This Act does not affect rights and duties that
8 matured, penalties that were incurred, and proceedings that were
9 begun before its effective date.

10 SECTION 8. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 9. This Act shall take effect on January 1, 2028.



Report Title:

CSC; Campaign Finance; Foreign Entities; Foreign-Influenced Business Entities; Exemption; Cargo Carriers

Description:

Prohibits foreign entities and foreign-influenced business entities from making contributions, expenditures, electioneering communications, or donations for election purposes. Requires every business entity that contributes or expends funds in a state election to certify that the entity was not a foreign corporation or foreign-influenced business entity when the contribution or expenditure was made. Specifies that if the conditions that determine whether a business entity qualifies as a foreign-influenced business entity are held unconstitutional by a final judgment, including all appeals, the Campaign Spending Commission is required to establish revised conditions that are constitutional. Requires noncandidate committees making only independent expenditures to obtain a statement of certification from each top contributor required to be listed in an advertisement avowing that no funds were derived from foreign entities or foreign-influenced business entities. Exempts entities engaged in transporting cargo and subject to section 27 of the Merchant Marine Act of 1920. Effective 1/1/2028. (SD1)

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