

A Bill for an Act Relating to Campaign Spending.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Chapter 11, part XII, subpart B, is amended to read as follows:

(a) Section 11-191, Hawaii Revised Statutes, is amended to read:

- “(4) “Candidate’s committee” means a committee as defined in section (6) of this section which makes an expenditure or accepts a contribution in behalf of a candidate with the candidate’s authorization.
- (5) “Commission” means the campaign spending commission.
- (6) “Committee” means:
- (A) Any organization or association which, or any individual who, accepts a contribution or makes an expenditure for or against any candidate, individual who files for nomination at a later date and becomes a candidate, or party, with or without the authorization of the candidate, individual, or party, or who accepts a contribution or makes an expenditure for or against any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election;
  - (B) Any organization or association which, or any individual who, raises or holds money or anything of value for a political purpose, with or without the consent or knowledge of any candidate, individual who files for nomination at a later date and becomes a candidate, or any party, and which subsequently contributes the money or anything of value to, or makes expenditures in behalf of, a candidate, individual who files for nomination at a later date and becomes a candidate, or party;
  - (C) Notwithstanding any of the foregoing, the term “Committee” shall not include any person making a contribution or expenditure of his own funds or anything of value which he originally acquired for his own use and not for the purpose of evading any provision of this chapter.
- (7) “Contribution” means:
- (A) A gift, subscription, deposit of money or anything of value, or cancellation of a debt or legal obligation and includes the purchase of tickets to fund raisers for the purpose of:
    - (i) Influencing the nomination for election, or election, of any person to office; or
    - (ii) Influencing the outcome of any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election; or
    - (iii) Use by any party for the purposes set out in clause (i) or (ii) above;
  - (B) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee without charge or at an unreasonably low charge for the purposes set out in clause (i), (ii), or (iii) in

- paragraph (A) above; or
- (C) A contract, promise, or agreement to make a contribution; provided that notwithstanding subparagraphs (A), (B), and (C) of this paragraph, the term shall not include services or portions thereof voluntarily provided without reasonable compensation by individuals to or in behalf of a candidate or committee; or
  - (D) Notwithstanding the above, a candidate's expenditure of his own funds or the making of a loan or advance in the pursuit of his campaign shall not be a contribution for the purpose of this chapter but shall nevertheless be reportable as a campaign receipt.
- (8) "Earmarked funds" means contributions received by a committee or party on the condition that the funds be contributed to or expended on certain candidates, issues, or questions.
  - (9) "Election" means any election for office or for determining a question or issue provided by law or ordinance.
  - (10) "Expenditure" means:
    - (A) Any purchase or transfer of money or anything of value, or promise or agreement to purchase or transfer money or anything of value, or payment incurred or made, or the use or consumption of a nonmonetary contribution for the purpose of:
      - (i) Influencing the nomination for election, or election, of any person seeking nomination for election, or election, to office whether or not the person has filed his nomination paper; or
      - (ii) Influencing the outcome of any question or issue which appears or is reasonably certain to appear on the ballot at the next applicable election; or
      - (iii) Use by any party for the purposes set out in clause (i) or (ii) above;
    - (B) The payment, by any person other than a candidate or committee, of compensation for the personal services of another person which are rendered to the candidate or committee for any of the purposes mentioned in clause (i), (ii), or (iii) of this paragraph; or
    - (C) The expenditure by a candidate of his own funds for the purposes set out in clauses (i), (ii), and (iii) above.
  - (11) "House bulletin" means a communication sponsored by any person in the regular course of publication for limited distribution primarily to its employees or members.
  - (12) "Immediate family" means a candidate's spouse, and any child, parent, grandparent, brother, or sister of the candidate, and the spouses of such persons.
  - (13) "Individual" means a natural person.
  - (14) "Matching payment period" means:
    - (A) For a primary election, from January 1 of the year of a general election through the day of the primary election, or nine months prior to a special primary or special election through the day of a special primary or special election; and

- (B) For a general election, from the day after a primary or special primary election through the day of the general or special general election.
- (15) "Newspaper" means a publication of general distribution in the State issued once or more per month which is written and published in the State.
- (16) "Office" means any elective public or constitutional office excluding federal elective offices.
- (17) "Person" means an individual, partnership, committee, association, corporation, or labor union and its auxiliary committees.
- (18) "Political party" means any party which satisfies the requirements of section 11-61.
- (19) "Private contribution" means a monetary contribution other than from a candidate's own funds or from the Hawaii election campaign fund.
- (20) "Qualifying campaign contribution" means a monetary contribution of \$100 or less, and not more than \$100 of a person's total aggregate monetary contribution. Qualifying contributions do not include loans or in-kind contributions."

(b) Section 11-194, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-194 Registration.** Each candidate, committee, or party shall file an organizational report as set forth in section 11-196, no later than 4:30 p.m. on the earliest of the following applicable days:

- (1) On or before the day of filing for nomination or election;
- (2) At least forty-five days before the primary election or special primary election;
- (3) At least forty-five days before the general, special general, or special election, when there is no primary election; or
- (4) By the tenth day after (A) receiving any contributions in an aggregate amount of more than \$100, or (B) making or incurring any expenditure which is reportable under section 11-212 or 11-213."

(c) Section 11-195, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-195 Filing of reports, generally.** (a) All reports required to be filed under this chapter by a candidate or those committees directly associated with his candidacy shall be certified by the candidate. Reports required to be filed under this chapter by a party or committee which supports more than one candidate shall be certified by a person authorized to sign such reports. All reports required to be filed under this chapter shall be open for public inspection in the office of the commission.

(b) The original and one copy of all reports required under this chapter shall be filed at the office of the commission. In the case of counties having less than 200,000 voters, the filing shall be accomplished by filing an original and two copies of the required report with either the commission or the clerk of the county in which the candidate resides. The clerk shall then immediately mail the original and one copy of the report to the commission by certified mail.

(c) The commission or county clerk shall give each person filing a report a receipt stating the type of report filed and the date and time of filing.

(d) All reports filed with the county clerk's office shall be preserved by that office for five years.

(e) All reports required to be filed under this chapter shall at all times be

available to the lieutenant governor.

(f) For purposes of this chapter, whenever a report is required to be filed with the commission, "filed" means received in the office of the commission or county clerk, whichever is applicable, by the date and time specified for the filing of such report."

(d) Section 11-200, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-200 Campaign contributions; restrictions against transfer.** (a) A candidate, campaign treasurer, or candidate's committee shall not receive any contributions or receive or make any transfer of money or anything of value:

(1) For any purpose other than that directly related:

(A) In the case of the candidate, to his own campaign; or

(B) In the case of a campaign treasurer or candidate's committee, to the campaign of the candidate, question, or issue with which they are directly associated; or

(2) To support the campaigns of candidates other than the candidate, for whom the funds were collected or with whom the campaign treasurer or candidate's committee is directly associated; or

(3) To campaign against any other candidate not directly opposing the candidate for whom the funds were collected or with whom the campaign treasurer or candidate's committee is directly associated.

Any provision of law to the contrary notwithstanding, a candidate, campaign treasurer, or candidate's committee, as a contribution, may purchase from its campaign fund not more than two tickets for each fund raiser as defined in section 11-203, held by another candidate, committee, or party."

(b) This section shall not be construed to prohibit a party from supporting more than one candidate."

(e) Section 11-203, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-203 Fund raisers and fund raising activities.** (a) As used in this chapter, "fund raiser" means any function held for the benefit of a person which is designed to raise funds for political purposes for which the total price of attending the function is more than \$25 per person.

(b) There shall be no more than one fund raiser held for a person prior to a general or special election in which that person is either elected or defeated. Where a person seeks election to statewide office, he or his directly associated committee may hold not more than one fund raiser in each county prior to a general or special election.

Within six months after a general, special general, or special election, however, a candidate or committee directly associated with a candidate who has a deficit may hold an additional fund raiser.

(c) No fund raiser shall be held unless a notice of intent to hold the function is filed by the person in charge of the function with the commission prior to the date of the function setting forth the name and address of the person in charge, the price per person, the date, hour, and place of the affair, and whether contributions will be solicited at the affair and the method thereof.

(d) Fund raisers sponsored by a party for a political purpose for the general benefit of the party are exempt from the restrictions of subsection (b).

(e) The following expenses incident to a fund raiser and to all other political

fund raising activities held for the benefit of a person for which there is a charge for attending or participating in the fund raiser or fund raising activity, shall not be considered expenditures within the limitations set by section 11-209:

- (1) The cost of food and beverages consumed at the function;
- (2) Rent and utilities for the premises where the function is held;
- (3) The amount paid for guest speakers and entertainment;
- (4) Printing and postage; and
- (5) All other direct costs incurred in solicitation of the fund raiser or fund raising activity.”

(f) Section 11-204, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 11-204 Campaign contributions; limits as to persons.** (a) No person or any other entity other than a political party shall make contributions to a candidate in an aggregate amount greater than \$2,000 in any primary, special primary, special, or general election.

(b) A candidate or his immediate family in making a contribution to the candidate’s campaign shall be exempt from the above limitation, but shall be limited in the aggregate to \$50,000 in any election year.

(c) A contribution by a dependent minor shall be reported in the name of the minor but shall be counted against the contribution of the minor’s parent or guardian.

(d) Any candidate who knowingly receives in the aggregate more than \$2,000 in any primary, special primary, special, or general election from a person, shall be required to return any excess over \$2,000 to such person. If the contributor cannot be found, the excess over the contribution limit shall be deposited with the Hawaii election campaign fund. A candidate who complies with the provisions of this subsection prior to the initiation of prosecution shall not be subject to any penalty under section 11-228.”

(g) Section 11-206, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 11-206 Campaign contributions; restrictions as to excess.** (a) Every candidate in a primary, special primary, special, or general election who has voluntarily agreed to abide by spending limits and who subsequently receives campaign contributions in excess of the expenditure limit set for his respective office shall reserve use of such contributions until after a general or special election.

(b) Campaign contributions received in excess of the candidate’s expenditure limit shall not be used for personal expenses or to qualify for public funding in any subsequent election, and shall not be transferred to another candidate as prohibited in section 11-200.

(c) Such contributions may be used after a general or special election for fund raising activities and any other politically related activity sponsored by the candidate.

(d) All contributions collected pursuant to this section shall be reportable under section 11-213.”

(h) Section 11-209, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 11-209 Campaign expenditures; limits as to amounts.** (a) From January 1 of the year of a primary, special primary, special, or general election through the day of the special or general election, the total expenditures for candidates who voluntarily agree to limit their campaign expenditures, inclusive of all expenditures

made or authorized by the candidate himself and all campaign treasurers and committees in his behalf, shall not exceed the following amounts expressed respectively multiplied by the number of voters in the last preceding general election registered to vote for each respective class of offices:

- (1) For the office of governor—\$1.25;
- (2) For the office of lieutenant governor—70 cents;
- (3) For the office of mayor—\$1;
- (4) For the offices of state senator, state representative, county council member, and prosecuting attorney—70 cents; and
- (5) For the offices of the board of education and all other offices—10 cents.

(b) An additional five per cent increase shall be added to the base amounts allowable under subsection (a) starting in 1979 and each year thereafter.”

(i) Section 11-212, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 11-212 Preliminary reports.** (a) Each candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee, shall file a preliminary report with the commission or appropriate county clerk’s office, on forms provided by the commission no later than 4:30 p.m. on the tenth working day prior to each election. The report shall be certified pursuant to section 11-195 and shall contain the following information which is current through the fifteenth calendar day prior to the election:

- (1) The aggregate sum of all contributions and other campaign receipts received;
- (2) The amount and date of deposit of the contribution and the name and address of each donor who contributes an aggregate of more than \$100;
- (3) All expenditures made, incurred, or authorized by or for a candidate, including the name and address of each payee and the amount, date, and purpose of each expenditure; and
- (4) A current statement of the balance on hand or deficit.

(b) Notwithstanding this section, a candidate, party, or committee whose expenditures for the reporting period total \$500 or less may file a short form report with the commission or appropriate county clerk’s office in lieu of the reports required by this section and section 11-213.”

(j) Section 11-213, Hawaii Revised Statutes, is amended to read as follows:

**“Sec. 11-213 Final and supplemental reports.** (a) Primary and special primary. Each candidate whether or not successful in a primary or special primary election, authorized person in the case of a party, or campaign treasurer in the case of a committee, shall file a final primary report certified pursuant to section 11-195 with the commission on forms provided by the commission no later than 4:30 p.m. on the twentieth day after a primary or special primary election. The report shall include:

- (1) A statement of the total contributions and campaign receipts received;
- (2) The amount and date of deposit of each contribution and the name and address of each donor who contributes an aggregate of more than \$100;
- (3) A statement of all expenditures made, incurred, or authorized by or for a candidate including the name and address of each payee and the amount, date, and purpose of each expenditure; and
- (4) The cash balance and a statement of surplus or deficit.

(b) General, special general, or special election. Each candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall file a final general report with the commission on forms provided by the commission no later than 4:30 p.m. on the thirtieth day after a general, special general, or special election. The final general report shall be certified pursuant to section 11-195 and shall report all items prescribed in subsection (a). A candidate who is unsuccessful in a primary or special primary election need not file a final general report.

(c) Deficit. In the event of a deficit over \$250, the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee shall, every six months until the deficit is eliminated, file supplemental reports covering all items prescribed in subsection (a). The first report shall be due no later than 4:30 p.m. on the fifth day after the last day of the election year.

(d) Surplus. In the event of a surplus over \$250, the candidate, authorized person in the case of a party, or campaign treasurer in the case of a committee, shall:

- (1) Maintain the cash surplus in a financial depository; and
- (2) Every six months, until he becomes a candidate again, or in the case of a party or committee until they participate in an election again, file supplemental reports detailing all items prescribed in subsection (a).

The first report shall be due not later than 4:30 p.m. on the fifth day after the last day of the election year.

(e) Short form reporting. A candidate, party, or committee who receives no contributions, makes no expenditures, or has a deficit or surplus of \$250 or less in any prescribed reporting period shall nevertheless be required to file preliminary, final, and supplemental reports on the respective dates pursuant to this chapter. Such reports may be filed on a short form as provided by the commission.

(f) Supplemental reporting. All supplemental reports required by this section are to be filed until a candidate, party, or committee:

- (1) Re-registers with the commission for a new election period; or
- (2) Terminates registration with the commission."

(k) Section 11-223, Hawaii Revised Statutes, is amended to read as follows:

**"Sec. 11-223 Candidate funding; restrictions.** (a) Each candidate who accepts public campaign funds under this chapter shall be required to abide by the campaign spending limits for his respective office as set forth in section 11-209.

(b) Public campaign funds provided under this chapter shall only be used to:

- (1) Defray campaign expenses incurred by and paid for an eligible candidate or all committees authorized by such candidate; and
- (2) Repay loans, the proceeds of which were used to defray campaign expenses.

(c) No candidate or committee authorized by a candidate shall be entitled to receive any public funds under subsection (a) unless the candidate and at least one other candidate for the same elective seat have qualified to have their names on the election ballot in the same election.

(d) In no event shall any portion of the total sum of public campaign funds allowable for primary or special primary election expenditures be shifted to the total amount allowable for general election expenditures pursuant to section 11-221.

(e) In no event shall any candidate or campaign treasurer in receipt of public

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campaign funds transfer any portion of such funds to another candidate for any primary, special primary, special, or general election campaign.

(f) All public funds received under this chapter shall be deposited in a financial institution designated to do business in the State. No expenditures of any public funds received under this chapter shall be made except by checks drawn on such checking account. The commission may require such reports relating to the expenditure of such funds as it considers appropriate.

(g) Upon the filing of a final report for any primary, special primary, special, or general election, each candidate who has spent an amount below the expenditure limit set for his respective office, but who has received the maximum amount of public funds allowable for his respective office, shall return all unexpended public funds to the Hawaii election campaign fund.”

SECTION 2. Statutory material to be repealed is bracketed. New material is underscored.\*

SECTION 3. This Act shall take effect upon its approval.

(Approved June 10, 1980.)

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\*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.