
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 additional
2 disclosure of information regarding election campaign
3 contributions is necessary due to the decision of *Citizens*
4 *United v. Federal Election Commission*, 558 U.S. 310 (2010), and
5 subsequent case law. These decisions have led to the
6 proliferation of SuperPACs, which are noncandidate committees
7 that make only independent expenditures, and their virtually
8 unlimited spending in the political arena. Hawaii's experience
9 in the election cycles since *Citizens United* has been as
10 predicted: numerous SuperPACs have been formed, enormous amounts
11 of money have been expended, and many of the true contributors
12 remain hidden from the public.

13 *Citizens United* assumed meaningful disclosure so that "the
14 electorate [can] make informed decisions and give proper weight
15 to different speakers and messages." However, Hawaii's
16 disclosure requirements for SuperPACs are inadequate to provide
17 the electorate with information showing the true source of the



1 funds behind efforts seeking to influence their vote. The
2 contribution trail is obscured because current law requires only
3 that the name of the first level of contributor to a SuperPAC be
4 reported on filings with the State campaign spending commission.
5 Often the first level of contributor is another SuperPAC and as
6 the names of SuperPACs are frequently meaningless or misleading,
7 disclosure laws aimed at transparency are circumvented. For
8 example, in the 2014 election cycle, contributions totaling
9 around \$8,000,000 were received by twenty-nine SuperPACs
10 registered in Hawaii. Two of the top ten SuperPACs in Hawaii
11 received contributions solely from other SuperPACs, which
12 included a \$2.2 million contribution from an entity that is not
13 required to report in Hawaii. Also, three of the top ten
14 SuperPACs in Hawaii were registered at the same address, made
15 contributions amongst each other, and the origin of their funds
16 are entities with unknown contributors.

17 The legislature finds that the State's campaign finance
18 laws must be amended in order to increase transparency and
19 accountability, deter corruption, and strengthen confidence in
20 the election process by providing public access to information



1 about who is the true source of campaign contributions made to
2 or by SuperPACs.

3 The purpose of this Act is to require SuperPACs to provide,
4 for large contributions received from an entity that is not an
5 individual, for-profit business entity, or labor union, the
6 internet address where that entity's disclosure report can be
7 accessed. Alternatively, the SuperPAC can provide the name,
8 address, occupation, and employer of each funding source to that
9 entity, or state that the contributing entity is not subject to
10 any state or federal disclosure reporting requirements.

11 SECTION 2. Section 11-323, Hawaii Revised Statutes, is
12 amended by amending subsection (a) to read as follows:

13 "(a) The noncandidate committee organizational report
14 shall include:

15 (1) The committee's name, which shall incorporate the full
16 name of the sponsoring entity, if any. An acronym or
17 abbreviation may be used in other communications if
18 the acronym or abbreviation is commonly known or
19 clearly recognized by the general public. The
20 committee's name shall not include the name of a
21 candidate;



- 1 (2) The committee's address, including web page address,
2 if any;
- 3 (3) The area, scope, or jurisdiction of the committee;
- 4 (4) The name and address of the committee's sponsoring
5 entity. If the committee does not have a sponsoring
6 entity, the committee shall specify the trade,
7 profession, or primary interest of contributors to the
8 committee;
- 9 (5) The name, address, telephone number, occupation, and
10 principal place of business of the chairperson;
- 11 (6) The name, address, telephone number, occupation, and
12 principal place of business of the treasurer and any
13 other officers;
- 14 (7) An indication as to whether the committee was formed
15 to support or oppose a specific ballot question or
16 candidate and, if so, a brief description of the
17 question or the name of the candidate;
- 18 (8) An indication as to whether the committee is a
19 political party committee;



- 1 (9) The name, address, telephone number, occupation, and
2 principal place of business of the custodian of the
3 books and accounts;
- 4 (10) The name and address of the depository institution in
5 which the committee will maintain its campaign account
6 and each applicable account number;
- 7 (11) A certification by the chairperson and treasurer of
8 the statements in the organizational report; and
- 9 (12) The name, address, employer, and occupation of each
10 contributor who contributed an aggregate amount of
11 more than \$100 to the noncandidate committee since the
12 last election and the amount and date of deposit of
13 each such contribution[-]; provided that, for
14 noncandidate committees making only independent
15 expenditures, if a contribution of more than \$10,000
16 in the aggregate since the last election is received
17 from an entity other than an individual, for-profit
18 business entity, or labor union, then the report shall
19 additionally state:
- 20 (A) The internet address where the contributing
21 entity's disclosure report may be publicly



1 accessed, if the contributing entity is subject
2 to any state or federal disclosure reporting
3 requirements regarding the source of the
4 contributing entity's funds;

5 (B) The name, address, occupation, and employer of
6 each funding source of \$100 or more in the
7 aggregate since the last election to that
8 contributing entity; or

9 (C) An acknowledgement that the contributing entity
10 is not subject to any state or federal disclosure
11 reporting requirements regarding the source of
12 the contributing entity's funds."

13 SECTION 3. Section 11-335, Hawaii Revised Statutes, is
14 amended by amending subsection (b) to read as follows:

15 "(b) Schedules filed with the reports shall include the
16 following additional information:

17 (1) The amount and date of deposit of each contribution
18 received and the name, address, occupation, and
19 employer of each contributor making a contribution
20 aggregating more than \$100 during an election period,



1 which was not previously reported; provided that if
2 ~~[all]~~ :

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

6 (B) A noncandidate committee making only independent
7 expenditures receives a contribution of more than
8 \$10,000 in the aggregate since the last election
9 from an entity other than an individual, for-
10 profit business entity, or labor union, then the
11 schedule shall additionally state:

12 (i) The internet address where the contributing
13 entity's disclosure report may be publicly
14 accessed, if the contributing entity is
15 subject to any state or federal disclosure
16 reporting requirements regarding the source
17 of the contributing entity's funds;

18 (ii) The name, address, occupation, and employer
19 of each funding source that contributed \$100
20 or more in the aggregate since the last
21 election to that contributing entity; or



1 (iii) An acknowledgement that the contributing
2 entity is not subject to any state or
3 federal disclosure reporting requirements
4 regarding the source of the contributing
5 entity's funds.

6 (2) The amount and date of each contribution made and the
7 name and address of the candidate, candidate
8 committee, or noncandidate committee to which the
9 contribution was made;

10 (3) All expenditures, including the name and address of
11 each payee and the amount, date, and purpose of each
12 expenditure; provided that:

13 (A) Expenditures for advertisements or electioneering
14 communications shall include the names of the
15 candidates supported, opposed, or clearly
16 identified;

17 (B) Expenditures for consultants, advertising
18 agencies and similar firms, credit card payments,
19 salaries, and candidate reimbursements shall be
20 itemized to permit a reasonable person to



1 determine the ultimate intended recipient of the
2 expenditure and its purpose;

3 (C) Independent expenditures shall include the name
4 of any candidate supported, opposed, or clearly
5 identified; and

6 [+](D)[+] The purpose of an independent expenditure shall
7 include the name of the candidate who is
8 supported or opposed by the expenditure, and
9 whether the expenditure supports or opposes the
10 candidate;

11 (4) For noncandidate committees making only independent
12 expenditures, certification that no expenditures have
13 been coordinated with a candidate, candidate
14 committee, or any agent of a candidate or candidate
15 committee;

16 (5) The amount, date of deposit, and description of other
17 receipts and the name and address of the source of
18 each of the other receipts;

19 (6) A description of each durable asset, the date of
20 acquisition, value at the time of acquisition, and the



1 name and address of the vendor or contributor of the
2 asset; and

3 (7) The date of disposition of a durable asset, value at
4 the time of disposition, method of disposition, and
5 name and address of the person receiving the asset."

6 SECTION 4. Section 11-338, Hawaii Revised Statutes, is
7 amended by amending subsection (b) to read as follows:

8 "(b) The late contribution report shall include the
9 following information:

10 (1) Name, address, occupation, and employer of the
11 contributor;

12 (2) Name of the candidate, candidate committee, or
13 noncandidate committee making or receiving the
14 contribution; provided that, for noncandidate
15 committees making only independent expenditures, if a
16 late contribution of more than \$10,000 in the
17 aggregate is received from an entity other than an
18 individual, for-profit business entity, or labor
19 union, then the report shall additionally state:

20 (A) The internet address where the contributing
21 entity's disclosure report may be publicly



1 accessed, if the contributing entity is subject
2 to any state or federal disclosure reporting
3 requirements regarding the source of the
4 contributing entity's funds;

5 (B) The name, address, occupation, and employer of
6 each funding source of more than \$100 in the
7 aggregate since the last election to that
8 recipient entity; or

9 (C) An acknowledgement that the contributing entity
10 is not subject to any state or federal disclosure
11 reporting requirements regarding the source of
12 the contributing entity's funds;

13 (3) The amount of the contribution received;

14 (4) The amount of the contribution made;

15 (5) The contributor's aggregate contributions to the
16 candidate, candidate committee, or noncandidate
17 committee; and

18 (6) The purpose, if any, to which the contribution will be
19 applied, including, for contributions to a
20 noncandidate committee, the name of any candidate
21 supported, opposed, or clearly identified."



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

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

6 SECTION 7. This Act shall take effect on July 1, 2015.



Report Title:

Campaign Spending; Noncandidate Committees

Description:

Requires noncandidate committees making only independent expenditures to report whether their contributors of \$10,000 or more are subject to disclosure reporting requirements and provide information about the contributor's funding sources.
(HB1491 HD1)

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