



STATE OF HAWAII  
CAMPAIGN SPENDING COMMISSION


235 SOUTH BERETANIA STREET, ROOM 300  
HONOLULU, HAWAII 96813

March 17, 2021

TO: The Honorable Angus L.K. McKelvey, Chair  
House Committee on Government Reform

The Honorable Tina Wildberger, Vice Chair  
House Committee on Government Reform

Members of the House Committee on Government Reform

FROM: Kristin Izumi-Nitao, Executive Director   
Campaign Spending Commission

SUBJECT: **Testimony on S.B. No. 404, Relating to Electioneering Communications.**

Friday, March 19, 2021  
11:00 a.m., Via Videoconference

Thank you for the opportunity to testify on this bill.<sup>1</sup> The Campaign Spending Commission (“Commission”) supports this bill.

This measure amends Hawaii Revised Statutes (“HRS”) §11-341 to increase the amount of aggregate expenditures from more than \$2,000 to more than \$5,000 before the filing of a statement of information for electioneering communications is required. The bill also amends the definition of “disclosure date” from the first date a person has made expenditures during that year to the first date the electioneering communication is publicly distributed, provided that more than \$5,000 has been spent.

The bill further amends the definition of “electioneering communication” by deleting “at a bulk rate” from advertisements sent by mail so that all advertisements sent by mail, be it bulk rate or first class, will be covered by the definition. Finally, the bill deletes items “that constitute expenditures by the expending organization” from the types of communications excluded from the definition of electioneering communication.

The changing of the disclosure date to when the advertisement runs, which triggers the need to file the statement of information, is timelier since contracts for these advertisements could occur weeks or months before the advertisements are publicly distributed. This would also address the concern that having a disclosure date when the contract for the expenditure is made

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<sup>1</sup> The companion bill is H.B. No. 144.

reveals candidates' campaign strategy to opponents. Also, increasing the threshold amount from \$2,000 to \$5,000 will reduce the burden on smaller candidate committees with less activity. Thus, committees that purchase only inexpensive social media advertisements, and a candidate for a house district who pays for only one district-wide mailer would probably not need to file statements of information. In the 2020 elections, candidate committees filed 1,298 statements of information and noncandidate committees filed 145 statements of information.<sup>2</sup> If the \$5,000 threshold was in place in the 2020 elections, candidate committees filings of statements of information would have been reduced by about 25% and noncandidate committees filings of statement of information would have been reduced by 11%. Obviously, to completely exempt candidate committees from the requirement to file statements of information, which the House has done in another bill, would be a tremendous blow to transparency in political spending.

Finally, it makes no sense to consider advertisements mailed by bulk rate only, and not by any other postal rate, to be electioneering communications. Also, some committees have used the exclusion of items "that constitute expenditures by the expending organization" from the definition of electioneering communication, as a reason why those committees did not have to file statements of information. However, all committees are required to file statements of information for electioneering communications. HRS §§11-341(b)(2), 11-341(b)(3), & 11-341(b)(6). This exclusion is not needed since it cannot apply to committees already registered with the Commission and since the spending threshold for electioneering communications is more than \$1,000, any person filing a statement of information for electioneering communication will have to register with the Commission.

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<sup>2</sup> These numbers do not include the amended statements of information that were filed.



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COMMITTEE ON GOVERNMENT REFORM  
FRIDAY, 3/19/21, 11 AM, Room No. 309

SB404 RELATING TO ELECTIONEERING COMMUNICATIONS  
**TESTIMONY**

Beppie Shapiro, Legislative Committee, League of Women Voters of Hawaii

Chair McKelvey, Vice-Chair Wildberger and Committee Members:

**The League of Women Voters of Hawaii supports this bill, which: Increases the monetary threshold that requires disclosure of electioneering communications. Requires that disclosures of electioneering communications occur on the date the electioneering communications are publicly distributed; And classifies election advertisements sent by mail at any postal rate, and election advertisements that are expenditures of an organization, as electioneering communications.**

We believe these sensible changes to Hawai`i's Campaign Finance laws will improve administration of laws governing disclosures of electioneering communications, thus further leveling the playing field among candidates for government offices and increasing transparency in the electioneering process.

Thank you for the opportunity to submit testimony.

**Hawaii**  
*Holding Power Accountable*

Statement Before The  
**HOUSE COMMITTEE ON GOVERNMENT REFORM**  
Friday, March 19, 2021  
11:00 AM  
Via Videoconference and Conference Room 309

in consideration of  
**SB 404**  
**RELATING TO ELECTIONEERING COMMUNICATIONS.**

Chair McKELVEY, Vice Chair WILDBERGER, and Members of the House Government Reform Committee

Common Cause Hawaii supports SB 404, with suggested amendments. SB 404 increases the monetary threshold that requires disclosure of electioneering communications, requires that disclosures of electioneering communications occur on the date the electioneering communications are publicly distributed, classifies election advertisements sent by mail at any postal rate, and election advertisements that are expenditures of an organization, as electioneering communications.

Common Cause Hawaii is a nonprofit, nonpartisan, grassroots organization dedicated to reforming government and strengthening democracy through improving our campaign finance system with laws that amplify the voices of everyday Americans.

SB 404 provides, at page 1, lines 4-8, that each person who makes an expenditure for electioneering communications in an aggregate amount of more than \$5,000 (increased from \$2,000) during any calendar year shall file with the commission a statement of information within twenty—four hours of each disclosure date as provided in Hawaii Revised Statutes (HRS) § 11-341. Common Cause Hawaii is concerned that raising the amount from \$2,000 to \$5,000 to trigger electioneering communication disclosure will result in smaller races, such as some county council races, not meeting the \$5,000 threshold to file the statement of information. Common Cause Hawaii suggests raising the limit from \$2,000 to \$3,000 for transparency to ensure that smaller, local races will also be subject to HRS § 11-341.

SB 404 also amends the definition of “disclosure date” at page 3, lines 19-21, and page 4, lines 1-8 to the “date on which subsequent electioneering communication is publicly distributed” versus the original definition of “has made expenditures” on page 3, lines 20-21. Common Cause Hawaii is concerned with definitional change to “disclosure date”. This is because an electioneering communication may be contracted / purchased and then subsequently and serially distributed at a later time. If the disclosure date did not include dates on which a contract is executed, i.e., “has made expenditures”, a person could conceivably make their contracts for electioneering communications payable after the election and wait to disclose that spending, depriving the public of that information until it’s too late. Additionally, changing to “publicly distributed” could make administration more difficult and possibly lead to less timely disclosure in the last few weeks or days leading up to an election. Everyone who had previously been reporting their contracts for electioneering communications well ahead of the election, when their contracts were executed, would now be reporting all of those in together in that short period right before the election.

Transparency is better served if an electioneering communication statement of information is timely filed when contracted versus distributed. Common Cause Hawaii suggests keeping the original definition of “disclosure date”.

Thank you for the opportunity to testify in support of SB 404 with suggested amendments. If you have further questions of me, please contact me at [sma@commoncause.org](mailto:sma@commoncause.org).

Very respectfully yours,

Sandy Ma  
Executive Director, Common Cause Hawaii



**SB-404**

Submitted on: 3/18/2021 8:25:45 AM

Testimony for GVR on 3/19/2021 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Glenn Nagao	Individual	Oppose	No

Comments:

I am testifying to oppose SB404.

At a time when we need more transparency into elections and the money flowing behind them, we should not be removing disclosure requirements to the public. The disclosures are part of maintaining election integrity. I understand that it may put a little more onus on the campaigns but that is part of participating in this process. Understanding and abiding by the rules is something we all need to follow whether in politics or business.

Part of the information provided during a campaign ad is the disclosure. Those details need to be provided at the same time so the same audience can have all the information. This would put extra burden on the public to follow up and seek out those disclosure details rather than being presented to them with the ad.

I oppose SB404.

Thank you,

Glenn

**SB-404**

Submitted on: 3/18/2021 8:38:27 AM

Testimony for GVR on 3/19/2021 11:00:00 AM

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
lynne matusow	Individual	Oppose	No

Comments:

we need more transparency, not less. this bill should be deferred.