S.B. NO. 1344

A BILL FOR AN ACT

RELATING TO CAMPAIGN SPENDING.

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

SECTION 1. The legislature finds that additional disclosure of information regarding election campaign contributions and expenditures is necessary due to the decision of Citizens United v. Federal Election Commission, 558 U.S. 310 (2010), and subsequent case law. These decisions have led to the proliferation of SuperPACs, which are noncandidate committees that make only independent expenditures, and their virtually unlimited spending in the political arena. Hawaii's experience in the two election cycles since Citizens United has been as predicted: numerous SuperPACs have been formed, enormous amounts of money have been expended, and many of the true contributors remain hidden from the public.

Citizens United assumed meaningful disclosure so that "the electorate [can] make informed decisions and give proper weight to different speakers and messages." However, Hawaii's disclosure requirements for SuperPACs are inadequate to provide the electorate with information showing the true source or
recipient of the funds behind efforts seeking to influence their vote. The contribution trail is obscured because current law requires only that the name of the first level of contributor to or recipient of a contribution made by the SuperPAC be reported on filings with the State campaign spending commission. Often the first level of contributor or recipient is another SuperPAC and as the names of SuperPACs are frequently meaningless or misleading, disclosure laws aimed at transparency are circumvented. For example, in the 2014 election cycle, contributions totaling around $8,000,000 were received by twenty-nine SuperPACs registered in Hawaii. Two of the top ten SuperPACs in Hawaii received contributions solely from other SuperPACs, which included a $2.2 million contribution from an entity that is not required to report in Hawaii. Also, three of the top ten SuperPACs in Hawaii were registered at the same address, made contributions amongst each other, and the origin of their funds are entities with unknown contributors.

The legislature finds that the State's campaign finance laws must be amended in order to increase transparency and accountability, deter corruption, and strengthen confidence in the election process by providing public access to information
about who is the true source or recipient of campaign
contributions made to or by SuperPACs.

The purpose of this Act is to require SuperPACs to report, for contributions received from or made to an entity that is not an individual or business, whether the entity is subject to any state or federal disclosure reporting requirements and to provide the internet address where that entity's report can be accessed or, alternatively, the name, address, occupation, and employer of each funding source to that entity.

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

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

(1) The committee's name, which shall incorporate the full name of the sponsoring entity, if any. An acronym or abbreviation may be used in other communications if the acronym or abbreviation is commonly known or clearly recognized by the general public. The committee's name shall not include the name of a candidate;
(2) The committee's address, including web page address, if any;

(3) The area, scope, or jurisdiction of the committee;

(4) The name and address of the committee's sponsoring entity. If the committee does not have a sponsoring entity, the committee shall specify the trade, profession, or primary interest of contributors to the committee;

(5) The name, address, telephone number, occupation, and principal place of business of the chairperson;

(6) The name, address, telephone number, occupation, and principal place of business of the treasurer and any other officers;

(7) An indication as to whether the committee was formed to support or oppose a specific ballot question or candidate and, if so, a brief description of the question or the name of the candidate;

(8) An indication as to whether the committee is a political party committee;
(9) The name, address, telephone number, occupation, and principal place of business of the custodian of the books and accounts;

(10) The name and address of the depository institution in which the committee will maintain its campaign account and each applicable account number;

(11) A certification by the chairperson and treasurer of the statements in the organizational report; and

(12) The name, address, employer, and occupation of each contributor who contributed an aggregate amount of more than $100 to the noncandidate committee since the last election and the amount and date of deposit of each such contribution; provided that, for noncandidate committees making only independent expenditures, if a contribution is received from an entity other than an individual, partnership, corporation, business entity, or labor union, then the report shall state whether the contributing entity is subject to any state or federal disclosure reporting requirements concerning the contribution and:
(A) The internet address where the contributing entity's disclosure report can be publicly accessed; or

(B) The name, address, occupation, and employer of each funding source of $100 or more to that contributing entity."

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

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

(1) The amount and date of deposit of each contribution received and the name, address, occupation, and employer of each contributor making a contribution aggregating more than $100 during an election period, which was not previously reported; provided that if [all]:

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

(B) A noncandidate committee making only independent expenditures receives a contribution from an
entity other than an individual, partnership, corporation, business entity, or labor union, then a schedule shall state whether the contributing entity is subject to any state or federal disclosure reporting requirements concerning the contribution and:

(1) The internet address where the contributing entity's disclosure report can be publicly accessed; or

(ii) The name, address, occupation, and employer of each funding source that contributed $100 or more in the aggregate to that contributing entity;

(2) The amount and date of each contribution made and the name and address of the candidate, candidate committee, or noncandidate committee to which the contribution was made; provided that, for a noncandidate committee making only independent expenditures, the schedule shall state whether the recipient entity of the contribution is subject to any
state or federal disclosure reporting requirements

concerning the contribution and:

(A) The internet address where the recipient entity's
disclosure report can be publicly accessed; or

(B) The name, address, occupation, and employer of
each funding source of more than $100 in the
aggregate to that recipient entity;

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

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

(B) Expenditures for consultants, advertising
agencies and similar firms, credit card payments,
salaries, and candidate reimbursements shall be
itemized to permit a reasonable person to
determine the ultimate intended recipient of the
expenditure and its purpose;
(C) Independent expenditures shall include the name of any candidate supported, opposed, or clearly identified; and

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

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

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

(6) A description of each durable asset, the date of acquisition, value at the time of acquisition, and the name and address of the vendor or contributor of the asset; and
(7) The date of disposition of a durable asset, value at
the time of disposition, method of disposition, and
name and address of the person receiving the asset."

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

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

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

(2) Name of the candidate, candidate committee, or
noncandidate committee making or receiving the
contribution; provided that, for noncandidate
committees making only independent expenditures, if a
contribution made is to an entity other than an
individual, partnership, corporation, business entity,
or labor union, then the report shall state whether
the recipient entity of the contribution is subject to
any state or federal disclosure reporting requirements
concerning the contribution and:

(A) The internet address where the recipient entity's
disclosure report can be publicly accessed; or
(B) The name, address, occupation, and employer of each funding source of more than $100 in the aggregate to that recipient entity;

(3) The amount of the contribution received;

(4) The amount of the contribution made;

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

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

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

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

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

INTRODUCED BY: [Signature]
Report Title:
Campaign Spending; Noncandidate Committees

Description:
Requires noncandidate committees making only independent expenditures to report whether its contributors and recipients are subject to disclosure reporting requirements and provide access to the contributor and recipient's reportable funding information.

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