

STAND. COM. REP. NO.

1432

Honolulu, Hawaii

MAR 25 , 2021

RE: S.B. No. 404
H.D. 1

Honorable Scott K. Saiki
Speaker, House of Representatives
Thirty-First State Legislature
Regular Session of 2021
State of Hawaii

Sir:

Your Committee on Government Reform, to which was referred
S.B. No. 404 entitled:

"A BILL FOR AN ACT RELATING TO ELECTIONEERING
COMMUNICATIONS,"

begs leave to report as follows:

The purpose of this measure is to amend the requirements for
a statement of information filed by each person who makes an
expenditure for electioneering communications by:

- (1) Increasing the monetary threshold that triggers
disclosure of electioneering communications;
- (2) Requiring that disclosures of electioneering
communications occur on the date the electioneering
communications are publicly distributed;
- (3) Classifying election advertisements sent by mail at any
postal rate as electioneering communications;
- (4) Deleting items that constitute expenditures by an
expending organization from the types of communications
excluded from the definition of electioneering
communications; and



- (5) Repealing the requirement that a person be treated as having made an expenditure if the person has executed a contract to make the expenditure.

Your Committee received testimony in support of this measure from the Campaign Spending Commission, League of Women Voters of Hawaii, and Common Cause Hawaii. Your Committee received testimony in opposition to this measure from two individuals.

Your Committee finds that amending the disclosure date of electioneering communications to occur on the date the electioneering communications are publicly distributed is timelier, as contracts for these advertisements may occur weeks or months before the electioneering communications are publicly distributed. Your Committee further finds that increasing the monetary threshold amount that would require disclosure of an electioneering communication will reduce the burden on smaller candidate committees that generally engage in less advertising.

Your Committee has amended this measure by:

- (1) Changing the monetary threshold that triggers disclosure of electioneering communications to an unspecified amount;
- (2) Restoring existing statutory language that exempts expenditures by an expending organization from being classified as an electioneering communication;
- (3) Clarifying that actual expenditures by an expending organization are exempted from being classified as an electioneering communication; and
- (4) Changing its effective date to July 1, 2112, to encourage further discussion.

Your Committee has amended this measure to statutorily restore paragraph (2) under the definition of "electioneering communication" as it was applied in H.B. No. 144, H.D. 1 (Regular Session of 2021), the companion to this measure that was previously passed by your Committee. However, since the passage of H.B. No. 144, H.D. 1 out of your Committee, your Committee agrees with concerns that restoring this language exactly as it currently exists in statute will leave a large loophole in the



law. Your Committee has further amended this measure to clarify that actual expenditures by an expending organization are exempted from being classified as an electioneering communication, which your Committee believes will close this loophole.

Your Committee respectfully requests your Committee on Judiciary & Hawaiian Affairs, should it deliberate on this measure, to consider the monetary threshold of \$5,000 that would trigger the disclosure of electioneering communications and the origin of this arbitrary amount.

As affirmed by the record of votes of the members of your Committee on Government Reform that is attached to this report, your Committee is in accord with the intent and purpose of S.B. No. 404, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 404, H.D. 1, and be referred to your Committee on Judiciary & Hawaiian Affairs.

Respectfully submitted on
behalf of the members of the
Committee on Government Reform,



ANGUS L.K. McKELVEY, Chair



Record of Votes of the Committee on Government Reform

Bill/Resolution No.: SB 404	Committee Referral: GVR, JHA	Date: 3-24-27		
<input type="checkbox"/> The committee is reconsidering its previous decision on the measure.				
The recommendation is to: <input type="checkbox"/> Pass, unamended (as is) <input checked="" type="checkbox"/> Pass, with amendments (HD) <input type="checkbox"/> Hold <input type="checkbox"/> Pass short form bill with HD to recommit for future public hearing (recommit)				
GVR Members	Ayes	Ayes (WR)	Nays	Excused
1. McKELVEY, Angus L.K. (C)	✓			
2. WILDBERGER, Tina (VC)	✓			
3. CULLEN, Ty J.K.				✓
4. ELI, Stacelynn K.M.				✓
5. ICHIYAMA, Linda	✓			
6. MIZUNO, John M.				✓
7. WOODSON, Justin H.				✓
8. YAMASHITA, Kyle T.	✓			
9. WARD, Gene	✓			
TOTAL (9)	5	0	0	4
The recommendation is: <input checked="" type="checkbox"/> Adopted <input type="checkbox"/> Not Adopted If joint referral, _____ did not support recommendation. <div style="text-align:center; font-size: small;">committee acronym(s)</div>				
Vice Chair's or designee's signature: <u><i>T. Winger</i></u>				
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