July 6, 2021

The Honorable Ronald D. Kouchi,
President and Members of the Senate
Thirty First State Legislature
State Capitol, Room 409
Honolulu, Hawai’i 96813

The Honorable Scott K. Saiki,
Speaker and Members of the
House of Representatives
Thirty First State Legislature
State Capitol, Room 431
Honolulu, Hawai’i 96813

Dear President Kouchi, Speaker Saiki, and Members of the Legislature:

I am transmitting herewith SB404 HDZ CD1, without my approval and with the statement of objections relating to the measure.

SB404 HD2 CD1 RELATING TO ELECTIONEERING COMMUNICATIONS.

Sincerely,

[Signature]

DAVID Y. IGE
Governor, State of Hawai’i
EXECUTIVE CHAMBERS
HONOLULU
July 6, 2021

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 404

Honorable Members
Thirty-First Legislature
State of Hawai‘i

Pursuant to Section 16 of Article III of the Constitution of the State of Hawai‘i, I am returning herewith, without my approval, Senate Bill No. 404, entitled "A Bill for an Act Relating to Electioneering Communications."

The purposes of this bill are to (1) exempt candidates and candidate committees from having to file electioneering communication statements of information; (2) reduce the aggregate amount that can be spent on electioneering communications before a statement of information must be filed from $2,000 to $1,000; (3) reduce the electioneering communications reporting requirement to just one statement of information to be filed upon meeting the $1,000 in aggregate spending; (4) revise the definition of "electioneering communication" to include any advertisement sent by mail, rather than just by bulk mail; and (5) clarify that an electioneering communication does not include communication that is an actual expenditure.

This bill is objectionable because it exempts candidate and candidate committees from the heightened twenty-four-hour reporting requirements, resulting in less information being provided to the public prior to election day. Furthermore, for noncandidate committees, the bill reduces the annual electioneering communication reporting requirement to just one report to be filed upon meeting the $1,000 in aggregate spending threshold and any spending beyond the initial $1,000 will not have to be reported, resulting in less information being provided to the public prior to election day.
For the foregoing reasons, I am returning Senate Bill No. 404 without my approval.

Respectfully,

DAVID Y. IGE
Governor of Hawai'i
A BILL FOR AN ACT

RELATING TO ELECTIONEERING COMMUNICATIONS.

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

SECTION 1. Section 11-341, Hawaii Revised Statutes, is amended as follows:

1. By amending subsections (a) and (b) to read:

"(a) Each person who makes an expenditure for electioneering communications in an aggregate amount of more than [$2,000] $1,000 during any calendar year shall file with the commission a statement of information within twenty-four hours of each disclosure date provided in this section.

(b) Each statement of information shall contain the following:

(1) The name of the person making the expenditure, name of any person or entity sharing or exercising discretion or control over the person, and the custodian of the books and accounts of the person making the expenditure;

(2) The names and titles of the executives or board of directors who authorized the expenditure, if the
expenditure was made by a noncandidate committee,
business entity, or an organization;

(3) The state of incorporation or formation and principal
address of the noncandidate committee, business
tentity, or organization or for an individual, the
name, address, occupation, and employer of the
individual making the expenditure;

(4) The amount of each expenditure during the period
covered by the statement and the identification of the
person to whom the expenditure was made;

(5) The elections to which the electioneering
communications pertain and the names of any clearly
identifiable candidates and whether those candidates
are supported or opposed;

(6) If the expenditures were made by a [candidate
committee—or] noncandidate committee, the names and
addresses of all persons who contributed to the
[candidate committee—or] noncandidate committee for
the purpose of publishing or broadcasting the
electioneering communications;
(7) If the expenditures were made by an organization other than a candidate committee or noncandidate committee, the names and addresses of all persons who contributed to the organization for the purpose of publishing or broadcasting the electioneering communications;

(8) Whether any electioneering communication is made in coordination, cooperation, or concert with or at the request or suggestion of any candidate, candidate committee, or noncandidate committee, or agent of any candidate if any, and if so, the identification of the candidate, candidate committee, or noncandidate committee, or agent involved; and

(9) The three top contributors as required under section 11-393, if applicable."

2. By amending subsection (d) to read:

"(d) For purposes of this section:

"Disclosure date" means, for every calendar year, the first date by which a person has made expenditures during that same year of more than [$2,000] $1,000 in the aggregate for
electioneering communications[,... and the date of any subsequent 
expenditures by that person for electioneering communications].

"Electioneering communication" means any advertisement that is broadcast from a cable, satellite, television, or radio broadcast station; published in any periodical or newspaper or by electronic means; or sent by mail [at a bulk rate], and that:

(1) Refers to a clearly identifiable candidate;

(2) Is made, or scheduled to be made, either within thirty days [prior to] before a primary or initial special election or within sixty days [prior to] before a general or special election; and

(3) Is not susceptible to any reasonable interpretation other than as an appeal to vote for or against a specific candidate.

"Electioneering communication" shall not include communications:

(1) In a news story or editorial disseminated by any broadcast station or publisher of periodicals or newspapers, unless the facilities are owned or controlled by a candidate, candidate committee, or noncandidate committee;
(2) That constitute actual expenditures by the expending organization;
(3) In house bulletins; or
(4) That constitute a candidate debate or forum, or solely promote a debate or forum and are made by or on behalf of the person sponsoring the debate or forum.
"Person" shall not include a candidate or candidate committee."

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

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval; provided that it shall apply beginning with the 2022 primary election.

APPROVED this day of , 2021

GOVERNOR OF THE STATE OF HAWAII
THE SENATE OF THE STATE OF HAWAI‘I

Date: April 27, 2021
Honolulu, Hawaii 96813

We hereby certify that the foregoing Bill this day passed Final Reading in the Senate of the Thirty-First Legislature of the State of Hawai‘i, Regular Session of 2021.

[Signature]
President of the Senate

[Signature]
Clerk of the Senate
SB No. 404, HD 2, CD 1

THE HOUSE OF REPRESENTATIVES OF THE STATE OF HAWAII

Date: April 27, 2021
Honolulu, Hawaii

We hereby certify that the above-referenced Bill on this day passed Final Reading in the
House of Representatives of the Thirty-First Legislature of the State of Hawaii, Regular Session
of 2021.

Scott K. Saiki
Speaker
House of Representatives

Brian L. Takeshita
Chief Clerk
House of Representatives