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CAMPAIGN SPENDING COMMISSION
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LATE TESTIMONY

March 18, 2013

TO: The Honorable Clayton Hee, Chair
Senate Committee on Judiciary and Labor

The Honorable Maile S.L. Shimabukuro, Vice Chair
Senate Committee on Judiciary and Labor

Members of the Senate Committee on Judiciary and Labor

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

SUBJECT: **Testimony on H.B. No. 201, HD 1, Relating to Campaign Spending**

Tuesday, March 19, 2013
10:05 a.m., Conference Room 016

Thank you for the opportunity to testify on this bill. The Campaign Spending Commission ("Commission") strongly supports this bill. This bill clarifies the law on campaign spending. This bill has a companion bill in the Senate, S.B. No. 555.

Section 1 of the bill amends §11-301 (definitions), Hawaii Revised Statutes ("HRS"), by adding a definition of "matching payment period." In that same section, the definition of "qualifying contribution" includes a reference to a matching payment period during which a candidate seeking public funding may receive qualifying contributions of \$100 or less. The definition of "matching payment period" was included in a prior law (HRS §11-191 (2009 Replacement)). Adding the definition of "matching payment period" back to the statute would allow Commission staff to better implement the partial public financing program.

Section 2 of the bill makes "housekeeping" amendments to HRS §11-314 (duties of the Commission). For example, the bill replaces "duplicating" with "duplication" in subsection 4. The bill does not enlarge or curtail the duties of the Commission in any manner.

Section 3 of the bill amends HRS §11-321 by correcting an incorrect citation to HRS §11-323.

Section 4 of the bill amends HRS §11-331(d)(2) by correcting an incorrect citation to HRS §11-323.

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Section 5 of the bill amends HRS §11-334(a)(4), to more clearly align the law with present practice. Presently, every candidate files the Supplemental Report that is due on January 31st every year and not just on January 31st after an election year. This bill does not require an additional or new report. That is, every senator and member of the House of Representatives, and every other elected state and county official (along with all other candidate committees registered with the Commission at the time) filed the Supplemental Report that was due on January 31, 2012. This bill would simply align the law with present practice by deleting “after an election year” from the statutory provision and provide that the Supplemental Report is due on January 31 of each year. If this amendment is not passed, the Commission may not be able to enforce the filing of the January Supplemental Report in an election year leaving a one-year gap (July 1st of a nonelection year to June 30th of an election year) in reporting by candidate committees.

Section 6 of the bill amends HRS §11-335 (noncandidate committee reports) by separating the reporting of contributions into contributions received and contributions made by noncandidate committees, and requiring noncandidate committees to identify the candidate supported or opposed by the committees’ independent expenditures. This will align the statute with the reality that noncandidate committees both make and receive contributions and report them, and to promote transparency of spending on independent expenditures.

Section 7 of the bill amends HRS §11-336(d), to more clearly align the law with present practice. Presently, under the Commission’s electronic filing system, every noncandidate committee is required to file the Supplemental Report that is due on January 31st every year and not just on January 31st after an election year. This bill does not require an additional or new report. This bill would simply align the law with present practice by deleting “after an election year” from the statutory provision and provide that the Supplemental Report is due on January 31 of each year. If this amendment is not passed, the Commission may not be able to enforce the filing of the January Supplemental Report in an election year leaving a one-year gap (July 1st of a nonelection year to June 30th of an election year) in reporting by noncandidate committees.

Sections 6 and 7 of this bill were passed by the Senate in S.B. No. 31 and that Senate bill has crossed-over to the House for the latter’s consideration.

Section 8 of the bill amends HRS §11-359 by correcting an incorrect citation to HRS §11-355.

Section 9 of the bill amends HRS §11-423 (voluntary expenditure limits; filing affidavit) by amending subsection (b) to require candidates to file the affidavit to abide by statutory expenditure limits no later than the time to file nomination papers. This timeline is contained in §12-6(e)¹ and was provided for in the prior campaign spending law (§11-208(c) (2009

¹ HRS §12-6(e) provides, “Upon the showing of a certified copy of an affidavit which has been filed with the campaign spending commission pursuant to section 11-208 by a candidate who has voluntarily agreed to abide by spending limits, the chief election officer or clerk shall discount the filing fee of the candidate by the following amounts: (1) For the office of the governor and

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Replacement)). This would allow Commission staff to better implement the partial public financing program and achieve compliance with state election laws.

Finally, section 9 of the bill also proposes an amendment to subsection (d) of HRS §11-423 by adding "prosecuting attorney" to paragraph (4). Thus, the prosecuting attorney, along with state senators, state representatives, and county council members participating in the partial public financing program would be able to spend \$1.40 multiplied by the number of registered voters in the voting district. This amendment reinstates language deleted by Act 203, Sess. Laws Haw. (2005). This deletion forced the Commission to place the prosecuting attorney in the "all other offices" category of spending limit, *i.e.*, 20 cents multiplied by the number of registered voters in the voting district. This seems unreasonable given the fact that the prosecuting attorney is a county-wide office. For example, under current law, the expenditure limit in the 2012 election period for the Honolulu Prosecuting Attorney for the 2012 elections was \$81,560 while the expenditure limit for the Honolulu Mayor was \$815,602. The expenditure limit for the Hawaii County Prosecuting Attorney for the 2012 election period was \$17,978 while the expenditure limit for the Hawaii County Mayor was \$179,776. Finally, the expenditure limit for the Kauai County Prosecuting Attorney for the 2012 election period was \$7,167 while the expenditure limit for the Kauai County Mayor was \$71,672.

Section 9 of this bill was passed by the Senate in S.B. No. 30 and that Senate bill has crossed-over to the House for the latter's consideration.

lieutenant governor -- \$675; (2) For the office of mayor -- \$450; and (3) For all other offices -- \$225."