

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 H.B. No. 1118 entitled:

"A BILL FOR AN ACT RELATING TO CAMPAIGN SPENDING,"

begs leave to report as follows:

The purpose of this measure is to require any organization, association, party, or individual that is financially involved in the political process to file a financial disclosure with the Campaign Spending Commission.

Your Committee received testimony in opposition to this measure from the Campaign Spending Commission.

Your Committee finds that dark money is defined as funds raised for the purpose of influencing elections by nonprofit organizations that are not required to disclose the identities of their donors and may come from Internal Revenue Code 501(c)(4) organizations that are not required to disclose the identity of their donors. Your Committee further finds that Internal Revenue Code 501(c)(4) organizations are tax-exempt as a social welfare organization, must not be organized for profit, and must be operated exclusively to promote social welfare. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. However, the Internal Revenue Code states that social welfare organizations may engage in some political activities, so long as that is not their primary activity, which allows 501(c)(4) organizations to engage in and spend unregulated amounts of money on political activity without any consequences or oversight, conceivably well above the political activity percentage threshold allowed.

Your Committee believes that this measure will provide more transparency in elections and build trust between the public and elected officials through transparent information by requiring any organization, including 501(c)(4) organizations, that is financially involved in the political process to file with the Campaign Spending Commission a financial disclosure.

Your Committee has amended this measure by:

(1) Restoring existing statutory language that, under certain circumstances, required a schedule filed by a noncandidate committee to the Campaign Spending Commission to include an acknowledgement that an entity contributing funds to a noncandidate committee is not subject to any state or federal disclosure reporting requirements regarding the source of the contributing entity's funds;

(2) Requiring noncandidate committees to provide to the Campaign Spending Commission a list of donors whose money was given by a 501(c)(4) organization to the noncandidate committee to fund an advertisement or electioneering communication;

(3) Changing its effective date to July 1, 2112, to encourage further discussion; and

(4) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

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 H.B. No. 1118, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1118, 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